Effective 7/1/2021

Title 63A. Utah Government Operations Code

Chapter 1
Department of Government Operations

Part 1
General Provisions

63A-1-101 Title.
(1) This title is known as the "Utah Government Operations Code."
(2) This chapter is known as "Department of Government Operations."

Amended by Chapter 344, 2021 General Session

63A-1-102 Purposes.
The department shall:
(1) provide specialized agency support services commonly needed;
(2) provide effective, coordinated management of state government operations services;
(3) serve the public interest by providing services in a cost-effective and efficient manner, eliminating unnecessary duplication;
(4) enable administrators to respond effectively to technological improvements;
(5) emphasize the service role of state administrative service agencies in meeting the service needs of user agencies;
(6) use flexibility in meeting the service needs of state agencies; and
(7) protect the public interest by ensuring the integrity of the fiscal accounting procedures and policies that govern the operation of agencies and institutions to assure that funds are expended properly and lawfully.

Amended by Chapter 344, 2021 General Session

63A-1-103 Definitions.
As used in this title:
(1) "Agency" means a board, commission, institution, department, division, officer, council, office, committee, bureau, or other administrative unit of the state, including the agency head, agency employees, or other persons acting on behalf of or under the authority of the agency head, the Legislature, the courts, or the governor, but does not mean a political subdivision of the state, or any administrative unit of a political subdivision of the state.
(2) "Department" means the Department of Government Operations.
(3) "Enterprise business management system" means the software system administered by the department to integrate, streamline, and centralize the department's business operations related to:
(a) the state's accounting system;
(b) payroll and human resources management;
(c) vendor management; and
(d) loan management and servicing.

(4) "Executive director" means the executive director of the Department of Government Operations.

Amended by Chapter 350, 2025 General Session

63A-1-104 Creation of department.

There is created within state government the Department of Government Operations, to be administered by an executive director.

Amended by Chapter 344, 2021 General Session

63A-1-105 Appointment of executive director -- Compensation.

(1) The governor shall:
(a) appoint the executive director with the advice and consent of the Senate; and
(b) establish the executive director's salary within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.
(2) The executive director shall serve at the pleasure of the governor.

Amended by Chapter 352, 2020 General Session

63A-1-105.5 Rulemaking authority of executive director.

The executive director may, upon the recommendation of the appropriate division directors or the director of the Office of Administrative Rules, make rules consistent with state and federal law, and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing:
(1) services of the department; and
(2) the provision and use of services furnished to state agencies and institutions.

Amended by Chapter 169, 2022 General Session

63A-1-106 Federal assistance -- Acceptance -- Approval of applications -- Expenditures necessary for eligibility.

(1) The executive director with the approval of the governor may accept on behalf of the state, and bind the state by that acceptance, any fund or service, advanced, offered, or contributed in whole or in part by the federal government for purposes consistent with the powers and duties of the department.
(2) All applications for federal grants or other federal assistance in support of any program of the department are subject to the approval of the executive director.
(3) If any executive or legislative provisions of the federal government require the expenditure of state funds as a condition to participation by the state in any fund, property, or service, the executive director, with the governor's approval, shall expend whatever funds are necessary out of the money provided by the Legislature for use and disbursement by the department.

Renumbered and Amended by Chapter 212, 1993 General Session

63A-1-107 Administrative support to building ownership authority.

The executive director shall provide administrative support and staff services to the State Building Ownership Authority.

Amended by Chapter 369, 2023 General Session

63A-1-108 Powers and duties of other agencies assigned to executive director.

Powers and duties assigned by other provisions of this title to the Division of Finance, the Division of Facilities Construction and Management, or other agencies or divisions of the department, and not specifically assigned by this chapter, shall be assigned to the executive director with the approval of the governor.

Amended by Chapter 369, 2023 General Session

63A-1-109 Divisions of department -- Administration.

(1) The department is composed of:
  (a) the following divisions:
    (i) the Division of Purchasing and General Services, created in Section 63A-2-101;
    (ii) the Division of Finance, created in Section 63A-3-101;
    (iii) the Division of Facilities Construction and Management, created in Section 63A-5b-301;
    (iv) the Division of Fleet Operations, created in Section 63A-9-201;
    (v) the Division of Archives and Records Service, created in Section 63A-12-101;
    (vi) the Division of Technology Services, created in Section 63A-16-103;
    (vii) the Division of Human Resource Management, created in Section 63A-17-105; and
    (viii) the Division of Risk Management, created in Section 63A-4-101.5;
  (b) the Office of Administrative Rules, created in Section 63G-3-401;
  (c) the Utah Office of Data Privacy, created in Section 63A-19-301; and
  (d) the Office of Inspector General of Medicaid Services, created in Section 63A-13-201.
(2) Each division described in Subsection (1)(a) shall be administered and managed by a division director.
(3) The department shall exercise oversight of:
  (a) the comprehensive state accounting system established by the Division of Finance under Section 63A-3-202.5; and
  (b) payroll services provided by the Division of Human Resource Management under Section 63A-17-402, including the use of the central payroll system developed by the Division of Finance.

Amended by Chapter 336, 2026 General Session

63A-1-109.5 Department authority to operate the department, a division, or an office as an internal service fund agency.

(1) Subject to Subsection (2), Section 63A-1-114, and provisions governing internal service funds or internal service fund agencies under Title 63J, Chapter 1, Budgetary Procedures Act, the department may:
  (a) operate the department as an internal service fund agency; or
  (b) operate a division or office described in Section 63A-1-109 as an internal service fund agency.
(2)
  (a) The department may only operate the department as an internal service fund agency for the purpose of providing a service related to the enterprise business management system.
  (b) If the department operates the department as an internal service fund agency in accordance with this section, the department shall, before charging a rate, fee, or other amount for a

service provided by the department's internal service fund to an executive branch agency, or to a subscriber of services other than an executive branch agency:

(i) submit the proposed rate, fee, or other amount and cost analysis to the rate committee established in Section 63A-1-114; and

(ii) obtain the approval of the Legislature as required under Section 63J-1-410.

Amended by Chapter 350, 2025 General Session

63A-1-111 Service plans established by each division -- Contents -- Distribution.

(1) Each division and each office of the department described in Subsections 63A-1-109(1)(a) and (b) shall formulate and establish service plans for each fiscal year.

(2) The service plans shall describe:

(a) the services to be rendered to state agencies;

(b) the methods of providing those services;

(c) the standards of performance; and

(d) the performance measures used to gauge compliance with those standards.

(3) Before the beginning of each fiscal year, the service plans shall be distributed to each state agency that uses the services provided by that division.

Amended by Chapter 336, 2026 General Session

63A-1-112 Certificates of participation -- Legislative approval required -- Definition -- Exception.

(1)

(a) Certificates of participation for either capital facilities or capital improvements may not be issued by the department, its subdivisions, or any other state agency after July 1, 1985, without prior legislative approval.

(b) Nothing in this section affects the rights and obligations surrounding certificates of participation that were issued prior to July 1, 1985.

(2)

(a) As used in this section, "certificate of participation" means an instrument that acts as evidence of the certificate holder's undivided interest in property being lease-purchased, the payment on which is subject to appropriation by the Legislature.

(b)

(i) As used in this Subsection (2)(b), "performance efficiency agreement" means the same as that term is defined in Section 63A-5b-1001.

(ii) "Certificate of participation" does not include a performance efficiency agreement.

Amended by Chapter 152, 2020 General Session

63A-1-113 Agency exempt from title.

The Utah Housing Corporation is exempt from this title.

Amended by Chapter 71, 2005 General Session

63A-1-114 Rate committee -- Membership -- Duties.

(1)

(a) There is created a rate committee consisting of the executive directors, commissioners, or superintendents of seven state agencies, which may include the State Board of Education, that use services and pay rates to one of the department internal service funds, or their designee, that the governor appoints for a two-year term.
(b) The department may not have a representative on the rate committee.
(c)
(i) The committee shall elect a chair from the committee's members.
(ii) Members of the committee who are state government employees and who do not receive salary, per diem, or expenses from their agency for their service on the committee shall receive no compensation, benefits, per diem, or expenses for the members' service on the committee.
(d) The department shall provide staff services to the committee.
(2) A division described in Section 63A-1-109 that operates an internal service fund, or the department, if the department operates an internal service fund under Section 63A-1-109.5, shall submit to the rate committee:
(a) a proposed rate schedule for the goods or services rendered by the department or the division to:
(i) an executive branch entity; or
(ii) an entity that subscribes to a service rendered by the department or the division; and
(b) other information or analysis requested by the rate committee.
(3) Subject to Subsection (4), the committee shall:
(a) conduct all meetings in accordance with Title 52, Chapter 4, Open and Public Meetings Act;
(b) meet at least once each calendar year to:
(i) discuss the service performance of each internal service fund;
(ii) review the proposed rate schedules;
(iii) at the rate committee's discretion, approve, increase, or decrease the rate schedules described in Subsection (3)(b)(ii); and
(iv) discuss any prior or potential adjustments to the service level received by state agencies that pay rates to an internal service fund;
(c) recommend a proposed rate schedule for each internal service fund to:
(i) the Governor's Office of Planning and Budget; and
(ii) each legislative appropriations subcommittee that, in accordance with Section 63J-1-410, approves the internal service fund agency's rates and budget; and
(d) review and approve, increase, or decrease an interim rate when an internal service fund agency begins a new service or introduces a new product between annual general sessions of the Legislature.
(4) In addition to the meeting described in Subsection (3)(b), if an internal service fund agency submits a proposed increased rate schedule to the rate committee in accordance with Subsection 63J-1-410(4)(c), the committee shall, no later than 30 days after the day on which the committee receives the increased rate schedule, convene a meeting of the committee to:
(a) review the proposed increased rate schedule; and
(b) at the committee's discretion, approve or reject the proposed increased rate schedule.
(5) The committee may in accordance with Subsection 63J-1-410(4), decrease a rate that has been approved by the Legislature.

Amended by Chapter 350, 2025 General Session

63A-1-116 Appointment of coordinator of resource stewardship -- Duties of the coordinator of resource stewardship.

(1) The executive director of the department shall appoint a state coordinator of resource stewardship and establish the coordinator of resource stewardship's salary.
(2) The coordinator of resource stewardship shall report to the executive director or the executive director's designee.
(3) The coordinator of resource stewardship shall:
  (a) work with agencies to implement best practices and stewardship measures to improve air quality; and
  (b) make an annual report, by no later than October 1, on best practices and stewardship efforts to improve air quality to the Natural Resources, Agriculture, and Environment Interim Committee.
(4) An agency retains absolute discretion whether to incorporate practices or measures suggested by the coordinator.

Amended by Chapter 492, 2026 General Session

63A-1-117 Training and certification requirements.

The department shall ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:
(1) under this title;
(2) by the department; or
(3) by an agency or division within the department.

Enacted by Chapter 200, 2018 General Session

Chapter 2
Division of Purchasing and General Services

Part 1
General Provisions

63A-2-101 Creation.

There is created the Division of Purchasing and General Services within the department.

Amended by Chapter 344, 2021 General Session

63A-2-101.5 Definitions.

As used in this chapter:
(1) "Division" means the Division of Purchasing and General Services created under Section 63A-2-101.
(2) "Federal surplus property" means surplus property of the federal government of the United States.

(3) "Information technology equipment" means equipment capable of downloading, accessing, manipulating, storing, or transferring electronic data, including:
(a) a computer;
(b) a smart phone, electronic tablet, personal digital assistant, or other portable electronic device;
(c) a digital copier or multifunction printer;
(d) a flash drive or other portable electronic data storage device;
(e) a server; and
(f) any other similar device.
(4) "Person with a disability" means a person with a severe, chronic disability that:
(a) is attributable to a mental or physical impairment or a combination of mental and physical impairments; and
(b) is likely to continue indefinitely.
(5) "Property act" means the Federal Property and Administrative Services Act of 1949, 40 U.S.C. Sec. 549.
(6) "Purchasing director" means the director of the division appointed under Section 63A-2-102.
(7) "Smart phone" means an electronic device that combines a cell phone with a hand-held computer, typically offering Internet access, data storage, and text and email capabilities.
(8) "State agency" means any executive branch department, division, or other agency of the state.
(9) "State surplus property":
(a) means state-owned property, whether acquired by purchase, seizure, donation, or otherwise:
(i) that is no longer being used by the state or no longer usable by the state;
(ii) that is out of date;
(iii) that is damaged and cannot be repaired or cannot be repaired at a cost that is less than the property's value;
(iv) whose useful life span has expired; or
(v) that the state agency possessing the property determines is not required to meet the needs or responsibilities of the state agency;
(b) includes:
(i) a motor vehicle;
(ii) equipment;
(iii) furniture;
(iv) information technology equipment;
(v) a supply; and
(vi) an aircraft; and
(c) does not include:
(i) real property;
(ii) an asset of the School and Institutional Trust Lands Administration, established in Section 53C-1-201;
(iii) a firearm or ammunition; or
(iv) an office or household item made of aluminum, paper, plastic, cardboard, or other recyclable material, without any meaningful value except for recycling purposes.
(10) "State surplus property contractor" means a person in the private sector under contract with the state to provide one or more services related to the division's program for the management and disposition of state surplus property.
(11) "Surplus property program" means the program relating to state surplus property under Part 4, Surplus Property Service.
(12) "Surplus property program administrator" means:

(a) the purchasing director, if the purchasing director administers the surplus property program; or
(b) the state surplus property contractor, if the state surplus property contractor administers the surplus property program.

Amended by Chapter 243, 2020 General Session

63A-2-102 Director of division -- Appointment.

(1) The executive director shall appoint the director of the Division of Purchasing and General Services with the approval of the governor.
(2) The purchasing director is also the state's chief procurement officer.

Amended by Chapter 98, 2015 General Session

63A-2-103 Duties and authority of purchasing director -- State agency requirements -- Rate schedule.

(1) The purchasing director:
  (a) shall operate, manage, and maintain:
    (i) a central mailing service; and
    (ii) an electronic central store system for procuring goods and services;
  (b) shall operate, manage, and maintain the surplus property program; and
  (c) may establish:
    (i) a contract administration service, including contract performance surveys; and
    (ii) other central services.
(2)
  (a) Each state agency shall:
    (i) subscribe to all of the services described in Subsection (1)(a), unless the director delegates the director's authority to a state agency under Section 63A-2-104; and
    (ii) complete contract performance surveys as requested by the purchasing director under Subsection (1)(c)(i).
  (b) An institution of higher education, the State Board of Education, a school district, or a political subdivision of the state may subscribe to one or more of the services described in Subsection (1)(a).
(3)
  (a) The purchasing director shall:
    (i) prescribe a schedule of rates to be charged for all services provided by the division after the purchasing director:
      (A) submits the proposed rates for services provided by the division's internal service fund to the Rate Committee established in Section 63A-1-114; and
      (B) obtains the approval of the Legislature, as required by Section 63J-1-410;
    (ii) ensure that the rates are approximately equal to the cost of providing the services; and
    (iii) annually conduct a market analysis of rates.
  (b) A market analysis under Subsection (3)(a)(iii) shall include a comparison of the division's rates with the rates of other public or private sector providers if comparable services and rates are reasonably available.

Amended by Chapter 73, 2023 General Session

63A-2-104 Delegation of general services to departments or agencies -- Writing required -- Contents -- Termination.

(1) The purchasing director, with the approval of the executive director, may delegate, in writing, the purchasing director's authority to perform or control any general services function to another state agency by contract or other means authorized by law, if:
  (a) in the judgment of the executive director, the state agency has requested the authority; and
  (b) the state agency has the necessary resources and skills to perform or control the functions.
(2) The purchasing director may delegate the purchasing director's authority only when the delegation would result in net cost savings or improved service delivery to the state as a whole.
(3) The written delegation shall contain:
  (a) a precise definition of each function to be delegated;
  (b) a clear description of the standards to be met in performing each function delegated;
  (c) a provision for periodic administrative audits by the department; and
  (d) a date on which the agreement shall terminate if not previously terminated or renewed.
(4) An agreement to delegate functions to a state agency may be terminated by the department if the results of an administrative audit conducted by the department reveal lack of compliance with the terms of the agreement.

Amended by Chapter 98, 2015 General Session

63A-2-105 Director to approve certain purchases.

(1) A state agency that intends to purchase any mail-related equipment shall submit a purchase request to the purchasing director.
(2) The purchasing director shall review a request under Subsection (1) to ensure that:
  (a) the authority to perform those functions has been appropriately delegated to the state agency under this part;
  (b) the equipment meets proper specifications; and
  (c) the benefits from the state agency's purchase of the equipment outweigh the benefits of having the same functions performed by the division.

Amended by Chapter 398, 2024 General Session

63A-2-106 Background checks for employees.

(1) As used in this section, "bureau" means the Bureau of Criminal Identification created in Section 53-10-201.
(2) Beginning July 1, 2018, the division shall require all applicants for the following positions to submit to a fingerprint-based local, regional, and national criminal history background check and ongoing monitoring as a condition of employment:
  (a) assistant directors;
  (b) contract analysts; and
  (c) purchasing agents.
(3) Each applicant for a position listed in Subsection (2) shall provide a completed fingerprint card to the division upon request.
(4) The division shall require that an individual required to submit to a background check under Subsection (3) provide a signed waiver on a form provided by the division that meets the requirements of Subsection 53-10-108(4).
(5) For a noncriminal justice background search and registration in accordance with Subsection 53-10-108(13), the division shall submit to the bureau:

(a) the applicant's personal identifying information and fingerprints for a criminal history search of applicable local, regional, and national databases; and
(b) a request for all information received as a result of the local, regional, and nationwide background check.
(6) The division is responsible for the payment of all fees required by Subsection 53-10-108(15) and any fees required to be submitted to the Federal Bureau of Investigation by the bureau.
(7) The division may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:
(a) determine how the division will assess the employment status of an individual upon receipt of background information; and
(b) identify the appropriate privacy risk mitigation strategy to be used in accordance with Subsection 53-10-108(13)(b).

Enacted by Chapter 427, 2018 General Session

Part 4
Surplus Property Service

63A-2-401 State agencies required to participate in surplus property program -- Declaring property to be state surplus property -- Division authority.
(1) Except as otherwise provided in this part, a state agency shall dispose of and acquire state surplus property by participating in the surplus property program.
(2) A state agency may declare property that the state agency owns to be state surplus property by making a written determination that the property is state surplus property.
(3) The division shall determine the appropriate method for disposing of state surplus property.
(4) The division may:
(a) establish facilities to store state surplus property at locations throughout the state; and
(b) after consultation with the state agency requesting the sale of state surplus property, establish the selling price for the state surplus property.
(5) As provided in Title 63J, Chapter 1, Budgetary Procedures Act, the division may transfer proceeds generated by the sale of state surplus property to the state agency requesting the sale, reduced by a rate approved in accordance with Subsection 63A-2-103(3) to pay the division's costs of administering the surplus property program.
(6) By following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules establishing a surplus property program that meets the requirements of this chapter.

Amended by Chapter 169, 2022 General Session

63A-2-404 Acquisition of federal surplus property -- Powers and duties -- Advisory boards and committees -- Expenditures and contracts -- Clearinghouse of information -- Reports.
(1) The division may:
(a) acquire from the United States under and in conformance with the property act any federal surplus property under the control of any department or agency of the United States that is usable and necessary for any purposes authorized by federal law;
(b) warehouse federal surplus property if it is not real property; and

(c) distribute federal surplus property within this state to:
(i) tax-supported medical institutions, hospitals, clinics, and health centers;
(ii) school systems, schools, colleges, and universities;
(iii) other nonprofit medical institutions, hospitals, clinics, health centers, schools, colleges, and universities that are exempt from taxation under Section 501(c)(3) or (19), Internal Revenue Code;
(iv) civil defense organizations;
(v) political subdivisions; and
(vi) any other types of institutions or activities that are eligible to acquire the federal surplus property under federal law.

(2) The division may:
(a) receive applications from eligible health and educational institutions for the acquisition of federal surplus real property;
(b) investigate the applications;
(c) obtain opinions about those applications from the appropriate health or educational authorities of this state;
(d) make recommendations about the need of the applicant for the property, the merits of the applicant's proposed use of the property, and the suitability of the property for those purposes; and
(e) otherwise assist in the processing of those applications for acquisition of real and related personal property of the United States under the property act.

(3) The division may appoint advisory boards or committees.

(4) If required by law or regulation of the United States in connection with the disposition of surplus real property and the receipt, warehousing, and distribution of surplus personal property received by the surplus property program from the United States, the surplus property program administrator may:
(a) make certifications, take action, and make expenditures;
(b) enter into contracts, agreements, and undertakings for and in the name of the state including cooperative agreements with the federal agencies providing for use by and exchange between them of the property, facilities, personnel, and services of each by the other;
(c) require reports; and
(d) make investigations.

(5) The division shall act as the clearinghouse of information for public and private nonprofit institutions, organizations, and agencies eligible to acquire federal surplus real property to:
(a) locate both real and personal property available for acquisition from the United States;
(b) ascertain the terms and conditions under which that property may be obtained;
(c) receive requests from those institutions, organizations, and agencies and transmit to them all available information in reference to that property; and
(d) aid and assist those institutions, organizations, and agencies in every way possible in those acquisitions or transactions.

(6) The division shall:
(a) cooperate with the departments or agencies of the United States;
(b) file a state plan of operation;
(c) operate according to that plan;
(d) take the actions necessary to meet the minimum standards prescribed by the property act;
(e) make any reports required by the United States or any of its departments or agencies; and

(f) comply with the laws of the United States and the regulations of any of the departments or agencies of the United States governing the allocation of, transfer of, use of, or accounting for any property donated to the state.

Amended by Chapter 283, 2026 General Session

63A-2-408 Authority of state or local subdivision to receive property -- Revocation of authority of officer.

(1) Notwithstanding any other provision of law, the governing board or the executive director of any state department, instrumentality, or agency that is not a state agency, or the legislative body of any city, county, school district, or other political subdivision may by order or resolution give any officer or employee the authority to:
  (a) secure the transfer of state surplus property or federal surplus property through the division under the property act; and
  (b) obligate the state or political subdivision and its funds to the extent necessary to comply with the terms and conditions of those transfers.
(2) The authority conferred upon any officer or employee by an order or resolution remains in effect until:
  (a) the order or resolution is revoked; and
  (b) the division has received written notice of the revocation.

Amended by Chapter 98, 2015 General Session

63A-2-409 Disposal of certain surplus property.

This part does not apply to:
(1) disposition by:
  (a) the legislative branch of surplus property that is information technology equipment, if the Legislative Management Committee, by rule, establishes its own policy for disposition, by the legislative branch, of surplus property that is information technology equipment; or
  (b) the Department of Transportation of surplus personal property that was acquired as part of a transaction or legal action by the Department of Transportation acquiring real property for a state transportation purpose; or
(2) the Office of State Debt Collection's disposition or acquisition of surplus property, if the disposition or acquisition is incidental to execution or collection proceedings.

Amended by Chapter 59, 2025 General Session

63A-2-411 Disposal of state surplus property with minimal value.

(1) As used in this section, "item of minimal value" means an item of property that:
  (a)
    (i) had an initial purchase price of less than $100; and
    (ii) does not appreciate in value; or
  (b) the surplus property program administrator determines to be worth less than $100.
(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules that permit a state agency to dispose of an item of minimal value that the state agency has declared to be state surplus property as provided in Section 63A-2-401.

(3) Property of a state agency is presumed to be an item of minimal value if the property is not purchased after the surplus property program administrator offers the property for sale to the public at a price above $100.

Amended by Chapter 488, 2019 General Session

63A-2-412 Sale of surplus real property by state agency to qualifying entity for pre-entitlement appraised value -- Deferred payment.

(1) As used in this section, "qualifying entity" means a state agency or an independent entity, as defined in Section 63E-1-102, that administers public interests in housing.
(2) A state agency may provide for the sale of the state's surplus real property to a qualifying entity for a pre-entitlement appraised value, payment of which may be deferred, as determined by the state agency and subject to state and federal law.

Enacted by Chapter 371, 2026 General Session

Chapter 3
Division of Finance

Part 1
General Provisions

63A-3-101 Creation.

There is created within the department the Division of Finance, to be administered by a director.

Renumbered and Amended by Chapter 212, 1993 General Session

63A-3-102 Director of division -- Appointment.

(1) The executive director shall appoint the director of the Division of Finance with the approval of the governor.
(2) The director of the Division of Finance shall serve at the pleasure of the executive director.
(3) The director of the Division of Finance is the state's chief fiscal officer and the state's accounting officer.

Enacted by Chapter 212, 1993 General Session

63A-3-103 Duties of director of division -- Application to institutions of higher education.

(1) The director of the Division of Finance shall:
  (a) define fiscal procedures relating to approval and allocation of funds;
  (b) provide for the accounting control of funds;
  (c) promulgate rules that:
    (i) establish procedures for maintaining detailed records of all types of leases;
    (ii) account for all types of leases in accordance with generally accepted accounting principles;
    (iii) require the performance of a lease with an option to purchase study by state agencies prior to any lease with an option to purchase acquisition of capital equipment; and

(iv) require that the completed lease with an option to purchase study be approved by the director of the Division of Finance;

(d) if the department operates the Division of Finance as an internal service fund agency in accordance with Section 63A-1-109.5, submit to the Rate Committee established in Section 63A-1-114:

(i) the proposed rate and fee schedule as required by Section 63A-1-114; and

(ii) other information or analysis requested by the Rate Committee;

(e) oversee the Office of State Debt Collection;

(f) publish the state's current constitutional debt limit on the public finance website established by the state auditor in accordance with Section 67-3-12; and

(g) prescribe other fiscal functions required by law or under the constitutional authority of the governor to transact all executive business for the state.

(2)

(a) Institutions of higher education are subject to the provisions of Title 63A, Chapter 3, Part 1, General Provisions, and Title 63A, Chapter 3, Part 2, Accounting System, only to the extent expressly authorized or required by the Utah Board of Higher Education under Title 53H, Higher Education.

(b) Institutions of higher education shall submit financial data for the past fiscal year conforming to generally accepted accounting principles to the director of the Division of Finance.

(3) The Division of Finance shall prepare financial statements and other reports in accordance with legal requirements and generally accepted accounting principles for the state auditor's examination and certification:

(a) not later than 60 days after a request from the state auditor; and

(b) at the end of each fiscal year.

Amended by Chapter 9, 2025 Special Session 1

63A-3-104 Appropriation for contingency purposes -- Procedure for allotment.

(1)

(a) The Legislature shall determine the amount to be appropriated for contingency purposes, as well as the limits on the amount of any one allotment or total allotments to any one agency.

(b) In advance of making an allotment described in Subsection (1), the governor shall notify the Legislature through the Office of the Legislative Fiscal Analyst, of the governor's intent to make an allotment, of the amount to be allotted, and the justification for the allotment.

(2) Allotments described in this section:

(a) shall be made only for unforeseeable emergencies; and

(b) may not be made to correct poor budgetary practices or for purposes having no existing appropriation or authorization.

Amended by Chapter 261, 2025 General Session

63A-3-105 Securities deposited with state treasurer -- Release.

(1) The director of the Division of Finance shall collect and deposit with the state treasurer all stocks, evidences of indebtedness, bonds, and securities of every kind and nature belonging to the state or any of its departments.

(2) The state treasurer shall keep a complete record of the items deposited under Subsection (1) and credit each to the proper fund or account. The treasurer shall release the items only upon the order of the director.

Renumbered and Amended by Chapter 212, 1993 General Session

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

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

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

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

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

(d)

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

(ii) "Governmental entity" does not include an association as defined in Section 53G-7-1101.

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

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

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

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

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

(a) within the executive branch, except as provided under Subsection (3)(b);

(b) within an institution of higher education, unless an institution of higher education pays the costs of the per diem;

(c) on a board that is:

(i) not included under Subsection (3)(a) or (b); and

(ii) created by a statute that adopts the per diem rates by reference to:

(A) this section; and

(B) the rule authorized by this section; and

(d) within a government entity that is not included under Subsection (3)(a), if the government entity adopts the per diem rates by reference to:

(i) this section; or

(ii) the rule establishing the per diem rates.

(4)

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

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

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

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

Amended by Chapter 9, 2025 Special Session 1

63A-3-107 Travel expenses of board members and state officers and employees.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and subject to approval by the executive director, the director of the Division of Finance shall make rules governing in-state and out-of-state travel expenses.

(2) Unless otherwise provided by statute, a travel expense rule established under Subsection (1) is applicable to:

(a) a board member, an officer, or employee of the executive branch, except as provided under Subsection (2)(b);

(b) a board member, an officer, or employee of an institution of higher education, unless the institution of higher education pays the costs of the travel expenses;

(c) a board member who:

(i) is not included under Subsection (2)(a) or (b); and

(ii) serves on a board created by a statute that adopts the travel expense rates by reference to:

(A) this section; and

(B) the rule authorized by this section; and

(d) a government entity that is not included under Subsection (2)(a), if the government entity adopts the travel expense provisions by reference to:

(i) this section; or

(ii) the rule establishing the travel expense provisions.

(3) The Division of Finance shall make the travel expense rules on the basis of:

(a) a mileage allowance; and

(b) reimbursement for other travel expenses incurred.

(4) The travel expense rules may specify an exception to a travel expense rule or allow the director of the Division of Finance to make an exception to a travel expense rule, when justified by the executive director of the executive branch agency or department, to meet special circumstances encountered in official attendance at a conference, convention, meeting, or other official business, as determined by the director of the Division of Finance.

(5) An officer or employee of the executive branch may not incur obligations for travel outside the state without the advance approval of the executive director or a designee of the executive director of an executive branch department or agency.

(6) A board member may decline to receive travel expenses for the board member's service.

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

Amended by Chapter 9, 2025 Special Session 1

63A-3-109 Contribution dependent accounts -- Annual report.

(1) As used in this section:

(a)

(i) "Contribution" means a voluntary donation of money or other valuable property to a state fund or account.

(ii) "Contribution" does not include:

(A) a fee or tax levied by a state entity; or

(B) a voluntary donation made under Title 41, Chapter 1a, Motor Vehicle Act or Title 59, Chapter 10, Part 13, Individual Income Tax Contribution Act.

(b)

(i) "Contribution dependent account" means a state fund or account that:

(A) receives at least 50% of the fund's or account's revenue from contributions; and
(B) is not intended to be used to directly provide services exclusively to a person who makes a contribution to the fund or account.
(ii) "Contribution dependent account" does not include a fiduciary fund as defined in Section 51-5-4.
(2) The Division of Finance shall annually prepare a report that:
(a) lists each contribution dependent account that did not receive at least $30,000 in contributions during at least one of the three fiscal years before the day on which the report is compiled; and
(b) recommends that the Legislature close each contribution dependent account listed in the report.
(3) The Division of Finance shall present the report described in Subsection (2) to the Executive Appropriations Committee by November 30 of each year.

Amended by Chapter 451, 2022 General Session

63A-3-110 Personal use expenditures for state officers and employees.
(1) As used in this section:
(a) "Employee" means a person who is not an elected or appointed officer and who is employed on a full- or part-time basis by a governmental entity.
(b) "Governmental entity" means:
(i) an executive branch agency of the state, the offices of the governor, lieutenant governor, state auditor, attorney general, and state treasurer, the State Board of Education, and the Utah Board of Higher Education;
(ii) the Office of the Legislative Auditor General, the Office of the Legislative Fiscal Analyst, the Office of Legislative Research and General Counsel, the Legislature, and legislative committees;
(iii) courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch; or
(iv) independent state entities created under Title 63H, Independent State Entities.
(c) "Officer" means a person who is elected or appointed to an office or position within a governmental entity.
(d)
(i) "Personal use expenditure" means an expenditure made without the authority of law that:
(A) is not directly related to the performance of an activity as a state officer or employee;
(B) primarily furthers a personal interest of a state officer or employee or a state officer's or employee's family, friend, or associate; and
(C) would constitute taxable income under federal law.
(ii) "Personal use expenditure" does not include:
(A) a de minimis or incidental expenditure; or
(B) a state vehicle or a monthly stipend for a vehicle that an officer or employee uses to travel to and from the officer or employee's official duties, including a minimal allowance for a detour as provided by the state.
(e) "Public funds" means the same as that term is defined in Section 51-7-3.
(2) A state officer or employee may not:
(a) use public funds for a personal use expenditure; or
(b) incur indebtedness or liability on behalf of, or payable by, a governmental entity for a personal use expenditure.

(3) If the Division of Finance or the responsible governmental entity determines that a state officer or employee has intentionally made a personal use expenditure in violation of Subsection (2), the governmental entity shall:
  (a) require the state officer or employee to deposit the amount of the personal use expenditure into the fund or account from which:
    (i) the personal use expenditure was disbursed; or
    (ii) payment for the indebtedness or liability for a personal use expenditure was disbursed;
  (b) require the state officer or employee to remit an administrative penalty in an amount equal to 50% of the personal use expenditure to the Division of Finance; and
  (c) deposit the money received under Subsection (3)(b) into the General Fund.
(4)
  (a) Any state officer or employee who has been found by a governmental entity to have made a personal use expenditure in violation of Subsection (2) may appeal the finding of the governmental entity.
  (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Division of Finance shall make rules regarding an appeal process for an appeal made under Subsection (4)(a), including the designation of an appeal authority.
(5)
  (a) Subject to Subsection (5)(b), the Division of Finance may withhold all or a portion of the wages of a state officer or employee who has violated Subsection (2) until the requirements of Subsection (3) have been met.
  (b) If the state officer or employee has requested an appeal under Subsection (4), the Division of Finance may only withhold the wages of the officer or employee after the appeal authority described in Subsection (4)(b) has confirmed that the officer or employee violated Subsection (2).
(6) Nothing in this chapter immunizes a state officer or employee from or precludes any criminal prosecution or civil or employment action for an unlawful personal use expenditure.
(7) A state officer or employee who is convicted of misusing public money or public property under Section 76-8-402 may not disburse public funds or access public accounts.

Amended by Chapter 360, 2020 General Session
Amended by Chapter 365, 2020 General Session

63A-3-112 Digital user asset collection.
(1) As used in this section:
  (a) "Agency" means a state government entity that receives payments for services or fees and is eligible to enter into a contract for payment services with the division.
  (b) "Agency payment" means a payment that is due directly to an agency and that the agency collects either directly or through a third-party payment processor with whom the division has a contract.
  (c) "Digital asset" means a representation of economic, proprietary, or access rights that is stored in a computer readable format.
  (d) "Digital security" means a digital asset which constitutes a security, as that term is defined in Section 70A-8-101.
  (e)
    (i) "Digital user asset" means a digital asset that is used or bought primarily for consumptive, personal, or household purposes.
    (ii) "Digital user asset" includes an open blockchain token.

(iii) "Digital user asset" does not include a digital security.

(f) "Participating agency" means an agency that meets the division's requirements to accept payments made through a service provider with whom the division has a contract.

(g) "Political subdivision" means the same as that term is defined in Section 63G-7-102.

(h) "Political subdivision payment" means a payment that is due directly to a political subdivision and that the political subdivision collects either directly or through a third-party payment processor with whom the political subdivision has a contract.

(i) "Service provider" means a person with demonstrated experience exchanging digital user assets for legal tender.

(2) The division shall contract with a service provider to provide a service to process an agency payment for a participating agency by:

(a) taking the payment in the form of a digital user asset; and

(b) converting the digital user asset into legal tender to pay the agency payment.

(3)

(a) When contracting with a service provider to provide the service described in Subsection (2), the division has discretion to choose a service provider that can only provide the exchange service for a limited class or type of digital user asset.

(b) The division may contract with more than one service provider to provide the service described in Subsection (2).

(c) Nothing in this section shall be interpreted to require the division to provide the service described in Subsection (2) for all types of digital user assets.

(4)

(a) The person paying the agency payment bears responsibility for any costs the service provider charges for the service provider's service.

(b) The division may collect a fee established in accordance with the procedures and requirements of Section 63J-1-504 to cover the costs to the division of providing the service described in Subsection (2).

(5) The division shall contract to provide the service described in Subsection (2) on or before January 1, 2023.

(6) The division shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to:

(a) establish standards that a person must meet to be eligible to enter into a contract as a service provider; and

(b) establish requirements an agency must meet to be a participating agency.

(7) A political subdivision may enter into an agreement with the division for the division to contract with a service provider to, on behalf of the political subdivision:

(a) provide a service to collect a political subdivision payment in the form of a digital user asset; and

(b) convert the digital user asset into legal tender to pay the political subdivision payment.

(8) Nothing in this section shall be interpreted to impose liability upon the person paying the agency payment or a participating agency for a change in value of the digital user asset after the moment of payment to the service provider.

Enacted by Chapter 405, 2022 General Session

Part 2

Accounting System

63A-3-201 Appointment of accounting and other officers and employees by director of the Division of Finance -- Delegation of powers and duties by director -- Background checks.

(1) With the approval of the executive director, the director of the Division of Finance shall appoint an accounting officer and other administrative officers that are necessary to efficiently and economically perform the functions of the Division of Finance.

(2) The director of the Division of Finance may:

(a) organize the division and employ other assistants to discharge the functions of the division;

(b) delegate to assistants, officers, and employees any of the powers and duties of the office subject to his or her control and subject to any conditions he may prescribe; and

(c) delegate the powers and duties of the office only by written order filed with the lieutenant governor.

(3)

(a) As used in this Subsection (3):

(i) "Public employee" means a person employed by a state agency.

(ii) "Public funds" means money, funds, and accounts, regardless of the source from which the money, funds, and accounts are derived, that are owned, held, or administered by a state agency.

(iii) "Public funds position" means employment with a state agency that requires:

(A) physical or electronic access to public funds;

(B) performing internal control functions or accounting;

(C) creating reports on public funds; or

(D) using, operating, or accessing state systems that account for or help account for public funds.

(iv) "State agency" means:

(A) an executive branch agency; or

(B) a state educational institution with the exception of an institution described in Subsection 53H-1-102(1).

(b) The Division of Finance may require that a public employee who applies for or holds a public funds position:

(i) submit a fingerprint card in a form acceptable to the division;

(ii) consent to a criminal background check by:

(A) the Federal Bureau of Investigation;

(B) the Utah Bureau of Criminal Identification; or

(C) another agency of any state that performs criminal background checks; or

(iii) consent to a credit history report, subject to the requirements of the Fair Credit Reporting Act, 15 U.S.C. Sec. 1681 et seq.

(c) The Bureau of Criminal Identification shall provide all the results from the state, regional, and nationwide criminal history background checks to the division.

(d) The Division of Finance may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to implement this section.

Amended by Chapter 9, 2025 Special Session 1

63A-3-202.1 Definitions.

As used in this part, "accounting system" means:

(1) a system that integrates into the state's general ledger accounting system;
(2) a system used to summarize information that is manually entered into the state's general ledger accounting system;
(3) a system used to collect and maintain:
  (a) detailed financial information on each individual transaction or event; or
  (b) information used to present the funds and activities of the state;
(4) a system used to determine and demonstrate financial compliance with legal, federal, audit, and contractual provisions; or
(5) a system similar to a system described in Subsections (1) through (4).

Enacted by Chapter 398, 2024 General Session

63A-3-202.5 Comprehensive state accounting system -- Approval of agency accounting systems -- Cost accounting systems required.
(1) Subject to the oversight of the department, the director of the Division of Finance shall establish a comprehensive state accounting system.
(2) Officers, departments, agencies, and institutions of Utah may create and maintain accounting systems only with the approval of the director.
(3) The director may, with the approval of the executive director, require any department or institution to install and maintain a cost accounting system that will disclose the unit cost of material or service produced or performed by a department.

Amended by Chapter 336, 2026 General Session

63A-3-203 Accounting control over state departments and agencies -- Prescription and approval of financial forms and accounting systems.
(1) The director of the Division of Finance shall:
  (a) exercise accounting control over all state departments and agencies except institutions of higher education; and
  (b) prescribe the manner and method of certifying that funds are available and adequate to meet all contracts and obligations.
(2)
  (a) The director shall monitor internal controls over state financial transactions to ensure that the controls are designed, implemented, and operating effectively.
  (b) The director may satisfy the requirement described in Subsection (2)(a) by relying on audits, reviews, or monitoring conducted by audit teams of state departments and agencies subject to the director's accounting control.
(3) The director shall prescribe:
  (a) all forms of requisitions, receipts, vouchers, bills, or claims to be used by all state departments and agencies; and
  (b) all forms to be used by the division.
(4) Before implementation by any state agency, the director of the Division of Finance shall review and approve any accounting system developed by a state agency.
(5) If a state agency does not obtain the approval described in Subsection (4), the director may:
  (a) require the state agency to cease all development activity related to the accounting system; and
  (b)
    (i) establish conditions of future development of the accounting system; or

(ii) deny implementation of the accounting system.

Amended by Chapter 336, 2026 General Session

63A-3-204 Financial control system -- Financial reports as to state funds -- Information required of executive directors of state departments.

(1) The director of the Division of Finance shall:
(a) maintain a financial control system according to generally accepted accounting principles;
(b) record the constituent elements of the General Fund and of each special fund in proper relationship to each other; and
(c) keep all accounts in balance.
(2) The director of the Division of Finance shall prepare and submit to the governor and to the Legislature, when requested, reports showing:
(a) the condition of the General Fund and each special fund of the state;
(b) the available cash resources of the General Fund and each special fund of the state;
(c) as to each fund:
(i) the estimated revenue and anticipated time of collection;
(ii) the current encumbrances, future obligations, and estimated date they accrue;
(iii) appropriations;
(iv) obligations;
(v) monthly allotments;
(vi) unencumbered allotments; and
(vii) reserves and surpluses;
(d) the capital assets and liability accounts of the state; and
(e) the valuation account of all other state property.
(3) The executive director of each department of state government and all institutions of higher education shall submit statements containing the information and data necessary to enable the director of the Division of Finance to submit to the governor the reports required by Subsection (2).

Renumbered and Amended by Chapter 212, 1993 General Session

63A-3-205 Revolving loan funds -- Standards and procedures.

(1) As used in this section, "revolving loan fund" means:
(a) the Water Resources Conservation and Development Fund, created in Section 73-10-24;
(b) the Water Resources Construction Fund, created in Section 73-10-8;
(c) the Clean Fuel Conversion Funds, created in Title 19, Chapter 1, Part 4, Clean Fuels and Emission Reduction Technology Program Act;
(d) the Water Development Security Fund and the Water Development Security Fund's subaccounts, created in Section 73-10c-5;
(e) the Agriculture Resource Development Fund, created in Section 4-18-106;
(f) the Utah Rural Rehabilitation Fund, created in Section 4-19-105;
(g) the Permanent Community Impact Fund, created in Section 63N-24-503;
(h) the Petroleum Storage Tank Fund, created in Section 19-6-409;
(i) the Uintah Basin Revitalization Fund, created in Section 63N-24-602;
(j) the Navajo Revitalization Fund, created in Section 63N-24-703; and
(k) the Energy Efficiency Fund, created in Section 11-45-201.

(2) The division shall for each revolving loan fund make rules establishing standards and procedures governing:
(a) payment schedules and due dates;
(b) interest rate effective dates;
(c) loan documentation requirements; and
(d) interest rate calculation requirements.

Amended by Chapter 393, 2026 General Session

Part 3
Accounts Receivable Collection

63A-3-301 Definitions.

As used in this part:
(1) "Account receivable" or "receivable" means any amount due the state or any other governmental entity within the state as a result of a judgment, citation, tax, or administrative order, or for which materials or services have been provided but for which payment has not been received by the servicing unit.
(2) "Debtor" means a party that owes, or is alleged to owe, an account receivable.
(3) "Division" means the Division of Finance, created in Section 63A-3-101.
(4) "Lien" means the lien described in Section 63A-3-307.
(5) "Local agency" means a nonprofit entity organized by participating political subdivisions to act on behalf of the participating political subdivisions with respect to the office's efforts to collect accounts receivable of participating political subdivisions through administrative offsets.
(6) "Mail" means United States Postal Service first class mail to the intended recipient's last known address.
(7) "Participating political subdivision" means a political subdivision that has entered into an agreement with a local agency authorizing the local agency to act on behalf of the political subdivision with respect to the office's efforts to collect accounts receivable of the political subdivision through administrative offsets.
(8) "Political subdivision" means the same as that term is defined in Section 63G-7-102.

Amended by Chapter 398, 2024 General Session

63A-3-302 Unpaid accounts receivable -- Political subdivision agreement with local agency.

(1)
(a) Except as provided in Subsections (1)(b) and (c), if any account receivable at any point has been unpaid for 90 days or more, any agency or other authority of the state, or any political subdivision responsible for collection of the account may proceed under this part to collect the delinquent amount.
(b) A governmental entity within the state that is a health care provider may not proceed under this part when the account receivable is for a medical material or service and the debtor:
(i) has made a payment arrangement with the health care provider; and
(ii) is current on payments under the payment arrangement.
(c) The state, a governmental entity within the state, or a local agency acting on behalf of a political subdivision within the state may proceed under this part on an account receivable

that is for a property tax imposed under Title 59, Chapter 2, Property Tax Act, only if the account receivable is three or more years delinquent.

(2)

(a) A political subdivision may enter into an agreement with a local agency under which the local agency, for a reasonable fee that the political subdivision and local agency agree upon, prepares and submits the political subdivision's accounts receivable for collection as provided in this part.

(b) Notwithstanding an agreement under Subsection (2)(a), a participating political subdivision shall:

(i) establish an agreement with the division for submitting delinquent accounts receivable under this part; and

(ii) with respect to the accounts receivable that the participating political subdivision submits through a local agency for collection under this part:

(A) receive and respond to an administrative hearing requested under Section 63A-3-305; and

(B) administer an adjudicative proceeding required under Section 63A-3-306.

Amended by Chapter 261, 2022 General Session

63A-3-303 Notice to debtor -- Contents -- Joint filers.

(1) For each instance when the state or any other governmental entity executes, or intends to execute, on a lien created by Section 63A-3-307, the state or entity to which the receivable is owed shall send a notice by mail to the debtor at the debtor's last-known address.

(2) The notice required by Subsection (1) shall contain:

(a) the date and amount of the receivable;

(b) a demand for immediate payment of the amount;

(c) a statement of the right of the debtor to file a written response to the notice, to request a hearing within 21 days of the date of the notice, to be represented at the hearing, and to appeal any decision of the hearing examiner;

(d) the time within which a written response must be received from the debtor;

(e) a statement notifying the debtor that the state may obtain an order and execute upon income tax overpayments or refunds of the debtor if:

(i) the debtor fails to timely respond to the notice; or

(ii) a hearing is held and the hearing officer decides against the debtor;

(f) the address to which the debtor may send a written request for a hearing; and

(g) the amount of the tax overpayment, refund, or other funds subject to a lien under this part, on which the state or governmental entity executes or intends to execute the lien.

(3) Notwithstanding Subsection (1), if the Office of State Debt Collection has agreed to collect a receivable, the Office of State Debt Collection may send the notice required by Subsection (1) instead of the entity to which the receivable is owed.

(4) Unless otherwise prohibited by law, the state or other governmental entity shall also send the notice required under this section to each individual who is a joint filer with a debtor of an affected tax filing, if the state or other governmental entity attempting to levy a debtor's tax overpayment, refund, or other funds subject to a lien under this part is aware of the joint filer.

Amended by Chapter 398, 2024 General Session

63A-3-304 Effect of nonpayment or failure to respond.

(1) If a written request for a hearing is not received by the state or other governmental entity within 21 days after the date of the notice required by Section 63A-3-303, the debtor is in default and the state or other governmental entity:
  (a) may levy the debtor's income tax overpayment, refund, or other funds subject to a lien under this part, that is specified in the notice, up to the amount of the receivable, plus interest, penalties, and collection costs allowed by law, to apply to the receivable specified in the notice; and
  (b) is not required to return to the debtor the income tax overpayment, refund, or other funds subject to a lien under which the state or other governmental entity levies.
(2) If a debtor pays a delinquent receivable in full before the state or other governmental entity applies to the delinquent receivable an amount levied under this part, the state or other governmental entity shall release the levied amount to the debtor, if the levied amount is being held due to a lien created under Section 63A-3-307.

Amended by Chapter 398, 2024 General Session

63A-3-305 Hearing requested -- Notice to debtor.
(1) If a written response is received by the state or other governmental entity within 21 days from the date of the notice required by Section 63A-3-303 and a hearing is requested in the written response, the state or other governmental entity shall:
  (a) set a hearing date within 28 days of the receipt of the response; and
  (b) mail written notice of the hearing to the debtor at least 14 days before the date of the hearing.
(2)
  (a) Notwithstanding Subsection (1), the state or other governmental entity is not required to set a hearing if the state or governmental entity releases its lien.
  (b) The state or other governmental entity may release a lien on a specific tax overpayment, a specific refund, or a specific amount of funds, without the release affecting subsequent or previous levies or liens under this part.
  (c) Each instance the state or other governmental entity, in response to a written request for a hearing from a debtor, releases a lien under this section, the state or other governmental entity releasing the lien shall, within a reasonable amount of time, send written notice to the debtor indicating that the lien has been released and to which year or years the release applies.
(3) A written request for hearing received under this part is a request for agency action under Title 63G, Chapter 4, Administrative Procedures Act.
(4) This part does not prevent a debtor from challenging a debt through other lawful means that may be available to a debtor.
(5) A written request under this part is the sole manner to dispute a levy under this part.

Amended by Chapter 398, 2024 General Session

63A-3-306 Hearing examiner -- Procedures -- Adjudicative proceedings.
(1)
  (a) A hearing requested under this part shall be held before a hearing examiner designated by the state or other governmental entity setting the hearing.
  (b) The hearing examiner may not be an officer or employee of the entity in state government responsible for collecting or administering the account.

(2) The state or other governmental entity shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in its adjudicative proceedings.
(3) If a hearing examiner determines a receivable is owed, in whole or in part:
(a) the state or other governmental entity may levy the debtor's income tax overpayment, refund, or other funds subject to a lien under this part, as specified in the notice to the debtor, up to the amount of the receivable determined to be owed, plus interest, penalties, and collection costs allowed by law and collect the balance, including as provided in Section 63A-3-307; and
(b) the state or other governmental entity may charge the debtor reasonable, actual collection costs for amounts charged by the hearing examiner for the debtor's hearing.

Amended by Chapter 398, 2024 General Session

63A-3-307 Liens.
(1) The following shall constitute a lien in the amount of the receivable plus interest, penalties, and collection costs allowed by law against any state income tax overpayment, refund, or other funds in possession of the state or other governmental entity, that are due or to become due the debtor:
(a) a judgment, citation, tax, or administrative order issued by any agency, court, or other authority of the state, or by any political subdivision;
(b) an amount, that has at any point been unpaid for 90 days or more, due the state or other governmental entity for which materials or services have been provided but for which payment has not been received by the servicing unit; or
(c) an amount, that:
(i) the debtor is statutorily required to pay to the state or other governmental entity; and
(ii) has, at any point, been unpaid for at least 90 days.
(2) The lien created by this section shall, for the purposes of Section 59-10-529 only, be considered a judgment.
(3) Nothing under Title 63G, Chapter 7, Part 6, Legal Actions Under this Chapter - Procedures, Requirements, Damages, and Limitations on Judgments, prohibits the state or other governmental entity from executing on a lien under this section.

Amended by Chapter 398, 2024 General Session

63A-3-308 Judicial review -- Effect on lien.
(1) Agency and judicial review of decisions from hearings conducted under this part are subject to review in accordance with Title 63G, Chapter 4, Administrative Procedures Act.
(2) The state or other governmental entity may retain in its possession a debtor's tax overpayment, refund, or other funds subject to a lien under this part, while a decision from a hearing conducted under this part is being reviewed by an agency, court, or other authority of the state pursuant to Title 63G, Chapter 4, Administrative Procedures Act.

Amended by Chapter 398, 2024 General Session

63A-3-310 Rules for implementing part.
The division may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the implementation of this part, including rules for the conduct of hearings, injured spouse claims, and appointment of hearing examiners.

Amended by Chapter 169, 2022 General Session

Part 4
Infrastructure Revolving Loan Funds

63A-3-401.5 Definitions.

As used in this part:

(1) "Borrower" means a person who borrows money from an infrastructure fund for an infrastructure project.

(2) "Fairpark district development fund" means the infrastructure fund created in Subsection 63A-3-402(1)(c).

(3) "Independent political subdivision" means:

(a) the Utah Inland Port Authority created in Section 11-58-201;

(b) the Point of the Mountain State Land Authority created in Section 11-59-201;

(c) the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201; or

(d) the Military Installation Development Authority created in Section 63H-1-201.

(4) "Infrastructure fund" means a fund created in Subsection 63A-3-402(1).

(5) "Infrastructure loan" means a loan of infrastructure fund money to finance an infrastructure project.

(6) "Infrastructure project" means a project to acquire, construct, reconstruct, rehabilitate, equip, or improve public infrastructure and improvements:

(a) within a project area; or

(b) outside a project area, if the respective loan approval body determines by resolution that the public infrastructure and improvements are of benefit to the project area.

(7) "Inland port" means the same as that term is defined in Section 11-58-102.

(8) "Inland port fund" means the infrastructure fund created in Subsection 63A-3-402(1)(a).

(9) "Military development fund" means the infrastructure fund created in Subsection 63A-3-402(1)(d).

(10) "Point of the mountain fund" means the infrastructure fund created in Subsection 63A-3-402(1)(b).

(11) "Project area" means:

(a) the same as that term is defined in Section 11-58-102, for purposes of an infrastructure loan from the inland port fund;

(b) the point of the mountain state land, as defined in Section 11-59-102, for purposes of an infrastructure loan from the point of the mountain fund;

(c) the same as that term is defined in Section 11-70-101, for purposes of an infrastructure loan from the fairpark district development fund; or

(d) the same as that term is defined in Section 63H-1-102, for purposes of an infrastructure loan from the military development fund.

(12) "Property tax revenue" means:

(a) property tax differential, as defined in Section 11-58-102, for purposes of an infrastructure loan from the inland port fund;

(b) enhanced property tax revenue, as defined in Section 11-70-101, for purposes of an infrastructure loan from the fairpark district development fund; or

(c) property tax allocation, as defined in Section 63H-1-102, for purposes of an infrastructure loan from the military development fund.

(13) "Public infrastructure and improvements" means:
(a) the same as that term is defined in Section 11-58-102, for purposes of an infrastructure loan from the inland port fund;
(b) publicly owned infrastructure and improvements, as defined in Section 11-59-102, for purposes of an infrastructure loan from the point of the mountain fund;
(c) the same as that term is defined in Section 11-70-101, for purposes of an infrastructure loan from the fairpark district development fund; or
(d) the same as that term is defined in Section 63H-1-102, for purposes of an infrastructure loan from the military development fund.
(14) "Respective loan approval body" means:
(a) the board created in Section 11-58-301, for purposes of an infrastructure loan from the inland port fund;
(b) the board created in Section 11-59-301, for purposes of an infrastructure loan from the point of the mountain fund;
(c) the board created in Section 11-70-301, for purposes of an infrastructure loan from the fairpark area development fund; or
(d) the committee created in Section 63H-1-104, for purposes of an infrastructure loan from the military development fund.

Amended by Chapter 419, 2024 General Session

63A-3-402 Infrastructure funds established -- Purpose of funds -- Use of money in funds.
(1) There are created, as enterprise revolving loan funds:
(a) the inland port infrastructure revolving loan fund;
(b) the point of the mountain infrastructure revolving loan fund;
(c) the fairpark area development revolving loan fund; and
(d) the military development infrastructure revolving loan fund.
(2) The purpose of each infrastructure fund is to provide funding, through infrastructure loans, for infrastructure projects undertaken by a borrower.
(3)
(a) Money in an infrastructure fund may be used only to provide loans for infrastructure projects.
(b) The division may not loan money in an infrastructure fund without the approval of:
(i) the respective loan approval body; and
(ii) the Executive Appropriations Committee of the Legislature, for a loan from the inland port fund, the point of the mountain fund, or the fairpark area development fund.

Amended by Chapter 419, 2024 General Session

63A-3-403 Money in infrastructure funds.
(1) Money in each of the infrastructure funds shall be kept separate and accounted for separately from money in the other infrastructure funds.
(2) Each infrastructure fund includes money:
(a) appropriated to that fund by the Legislature;
(b) transferred to the fund from the State Infrastructure Bank Fund created in Section 72-2-202, if applicable;
(c) from federal, state, or other public grants or contributions;
(d) that an independent political subdivision transfers to the fund from other money available to the independent political subdivision;

(e) contributed or granted to the infrastructure fund from a private source; and
(f) collected from repayments of loans of infrastructure fund money.
(3) In addition to money identified in Subsection (2), the military development fund includes money repaid under the terms of a loan agreement, as described in Section 63A-3-404, executed on or after October 1, 2021, from a loan under Subsection 63B-27-101(3)(a)(i).
(4)
(a) Each infrastructure fund shall earn interest.
(b) All interest earned on infrastructure fund money shall be deposited into the respective infrastructure fund and included in the money of the infrastructure fund available to be loaned.
(5) The state treasurer shall invest infrastructure fund money as provided in Title 51, Chapter 7, State Money Management Act.

Amended by Chapter 463, 2022 General Session

63A-3-404 Loan agreement.
(1)
(a) A borrower that borrows money from an infrastructure fund shall enter into a loan agreement with the division for repayment of the money.
(b)
(i) A loan agreement under Subsection (1)(a) shall be secured by:
(A) bonds, notes, or another evidence of indebtedness validly issued under state law; or
(B) revenue generated from an infrastructure project.
(ii) The security provided under Subsection (1)(b)(i) may include the borrower's pledge of some or all of a revenue source that the borrower controls.
(c) The respective loan approval body may determine that property tax revenue or revenue from the infrastructure project for which the infrastructure loan is obtained is sufficient security for an infrastructure loan.
(2) An infrastructure loan shall bear interest at a rate not to exceed .5% above bond market interest rates available to the state.
(3)
(a) Subject to Subsection (3)(b), the respective loan approval body shall determine the length of term of an infrastructure loan.
(b) If the security for an infrastructure loan is property tax revenue, the repayment terms of the infrastructure loan agreement shall allow sufficient time for the property tax revenue to generate sufficient money to cover payments under the infrastructure loan.
(4) An infrastructure loan agreement may provide for a portion of the loan proceeds to be applied to a reserve fund to secure repayment of the infrastructure loan.
(5)
(a) If a borrower fails to comply with the terms of an infrastructure loan agreement, the division may:
(i) seek any legal or equitable remedy to obtain:
(A) compliance with the agreement; or
(B) the payment of damages; and
(ii) request a state agency with money due to the borrower to withhold payment of the money to the borrower and instead to pay the money to the division to pay any amount due under the infrastructure loan agreement.

(b) A state agency that receives a request from the division under Subsection (5)(a)(ii) shall pay to the division the money due to the borrower to the extent of the amount due under the infrastructure loan agreement.

(6) Upon approval from the respective loan approval body the division shall loan money from an infrastructure fund according to the terms established by the respective loan approval body.

(7)

(a) The division shall administer and enforce an infrastructure loan according to the terms of the infrastructure loan agreement.

(b)

(i) Beginning May 5, 2021, the division shall assume responsibility from the State Infrastructure Bank Fund for servicing the loan under Subsection 63B-27-101(3)(a)(i).

(ii) Payments due on or after October 1, 2021, under the loan under Subsection 63B-27-101(3)(a)(i) shall be made to the division rather than to the State Infrastructure Bank Fund, to be deposited into the military development fund.

(iii) Notwithstanding Subsection (7)(b)(ii) and upon receipt of each debt service payment, the division shall deposit an amount equal to interest payments due on the bond described in Subsection 63B-27-101(3)(a)(i) into the Transportation Investment Fund of 2005 created in Section 72-2-124.

(8) A borrower may request, and the division may consider, an amendment to a loan agreement described in this section that:

(a) extends the term of the borrower's repayment; or

(b) forgives the balance of the borrower's loan.

(9)

(a) The division may agree to a request described in Subsection (8) and amend a loan agreement as described in this Subsection (9).

(b) Upon receiving a request described in Subsection (8), the division shall notify the Executive Appropriations Committee no later than 10 days after the day on which the division receives the request.

(c) Before amending a loan agreement, the division shall:

(i) consider factors necessitating the amendment and whether the amendment is in the best interests of the state, including if:

(A) the infrastructure project was properly managed and loan funds were wisely invested;

(B) external factors existed beyond the borrower's control that made the infrastructure projects impossible or impractical to complete; and

(C) changes to the infrastructure project would avoid the need for extension or forgiveness and additional investment of funds;

(ii) consider how and if the state shall be made financially whole, in whole or in part, under the proposed amendment; and

(iii) provide notice to, and receive advice from, the Executive Appropriations Committee as described in Subsection (9)(d).

(d)

(i) The division shall notify the Executive Appropriations Committee of a proposed amendment to a loan agreement at least 45 days before the division executes the amendment.

(ii) The Executive Appropriations Committee may provide, and the division shall consider, advice regarding a proposed amendment described in this Subsection (9).

Amended by Chapter 165, 2026 General Session

Part 5
Office of State Debt Collection

63A-3-501 Definitions.

As used in this part:

(1)
(a) "Accounts receivable" or "receivables" means any amount due to a state agency from an entity for which payment has not been received by the state agency that is servicing the debt.
(b) "Accounts receivable" includes:
(i) unpaid fees, licenses, taxes, loans, overpayments, fines, forfeitures, surcharges, costs, contracts, interest, penalties, third-party claims, sale of goods, sale of services, claims, and damages;
(ii) a civil accounts receivable; and
(iii) a civil judgment of restitution.
(c) "Accounts receivable" does not include a criminal accounts receivable.

(2) "Administrative offset" means:
(a) a reduction of an individual's tax refund or other payments due to the individual to reduce or eliminate accounts receivable that the individual owes to a state agency; and
(b) a reduction of an entity's tax refund or other payments due to the entity to reduce or eliminate accounts receivable that the entity owes to a state agency.

(3) "Civil accounts receivable" means the same as that term is defined in Section 77-32b-102.

(4) "Civil judgment of restitution" means the same as that term is defined in Section 77-32b-102.

(5) "Criminal accounts receivable" means the same as that term is defined in Section 77-32b-102.

(6) "Entity" means an individual, a corporation, partnership, or other organization that pays taxes to, or does business, with the state.

(7) "Office" means the Office of State Debt Collection created in Section 63A-3-502.

(8) "Past due" means any accounts receivable that the state has not received by the payment due date.

(9) "Political subdivision" means the same as that term is defined in Section 63G-7-102.

(10) "Restitution" means the same as that term is defined in Section 77-38b-102.

(11)
(a) "State agency" includes:
(i) an executive branch agency;
(ii) the legislative branch of state government; and
(iii) the judicial branches of state government, including justice courts.
(b) "State agency" does not include:
(i) any institution of higher education;
(ii) except in Subsection 63A-3-502(7)(g), the State Tax Commission; or
(iii) the administrator of the Uninsured Employers' Fund appointed by the Labor Commissioner under Section 34A-2-704, solely for the purposes of collecting money required to be deposited into the Uninsured Employers' Fund under:
(A) Section 34A-1-405;
(B) Title 34A, Chapter 2, Workers' Compensation Act; or
(C) Title 34A, Chapter 3, Utah Occupational Disease Act.

(12) "Writing-off" means the removal of an accounts receivable from an agency's accounts receivable records but does not necessarily eliminate further collection efforts.

Amended by Chapter 260, 2021 General Session

63A-3-502 Office of State Debt Collection created -- Duties.

(1) The state and each state agency shall comply with:
  (a) the requirements of this chapter; and
  (b) any rules established by the Office of State Debt Collection.
(2) There is created the Office of State Debt Collection in the Division of Finance.
(3) The office shall:
  (a) have overall responsibility for collecting and managing state receivables;
  (b) oversee and monitor state receivables to ensure that state agencies are:
    (i) implementing all appropriate collection methods;
    (ii) following established receivables guidelines; and
    (iii) accounting for and reporting receivables in the appropriate manner;
  (c) assist the Division of Finance to develop policies, procedures, and guidelines for accounting, reporting, and collecting money owed to the state;
  (d) write an inclusive receivables management and collection manual for use by each state agency;
  (e) prepare quarterly and annual reports of the state's receivables;
  (f) create or coordinate a state accounts receivable database;
  (g) assist the Division of Finance to establish procedures for writing off accounts receivable for accounting and collection purposes;
  (h) establish standard time limits after which an agency will delegate responsibility to collect state receivables to the office or the office's designee;
  (i) be a real party in interest for:
    (i) an account receivable referred to the office by any state agency; and
    (ii) a civil judgment of restitution entered on a civil judgment docket by a court;
  (j) allocate money collected for a judgment entered on the civil judgment docket under Section 77-18-114 in accordance with Sections 51-9-402, 63A-3-506, and 78A-5-110;
  (k) if a criminal accounts receivable is transferred to the office under Subsection 77-32b-103(2)(a)(ii), receive, process, and distribute payments for the criminal accounts receivable;
  (l) provide a debtor online access to the debtor's accounts receivable or criminal accounts receivable in accordance with Section 63A-3-502.5;
  (m) establish a written policy for each of the following:
    (i) the settling of an accounts receivable, including any amount of restitution owed to a victim in a civil judgment of restitution if the victim approves of the settlement;
    (ii) allowing a debtor to pay off a single debt as part of an accounts receivable even if the debtor has a balance on another debt as part of an accounts receivable or criminal accounts receivable;
    (iii) setting a payment deadline for settlement agreements and for obtaining an extension of a settlement agreement deadline; and
    (iv) reducing administrative costs when a settlement has been reached;
  (n) consult with a state agency on whether:
    (i) the office may agree to a settlement for an amount that is less than the debtor's principal amount; and
    (ii) the state agency may retain authority to negotiate a settlement with a debtor; and
  (o) provide the terms and conditions of any payment arrangement that the debtor has made with a state agency or the office when:

(i) the payment arrangement is created; or
(ii) the debtor requests a copy of the terms and conditions.
(4) The office may:
(a) recommend to the Legislature new laws to enhance collection of past-due accounts by state agencies;
(b) collect accounts receivables for higher education entities, if the higher education entity agrees;
(c) prepare a request for proposal for consulting services to:
(i) analyze the state's receivable management and collection efforts; and
(ii) identify improvements needed to further enhance the state's effectiveness in collecting the state's receivables;
(d) contract with private or state agencies to collect past-due accounts;
(e) perform other appropriate and cost-effective coordinating work directly related to collection of state receivables;
(f) provide information, training, and technical assistance to each state agency on various collection-related topics;
(g) prepare a written receivables management and collection policy and make the policy available for use by state agencies;
(h) develop reasonable criteria to gauge state agencies' efforts in maintaining an effective accounts receivable program;
(i) identify any state agency that is not making satisfactory progress toward implementing collection techniques and improving accounts receivable collections;
(j) coordinate information, systems, and procedures for each state agency to maximize the collection of past-due accounts receivable;
(k) obtain access to records and databases of any state agency that are necessary to the duties of the office by following the procedures and requirements of Section 63G-2-206, including the financial declaration form described in Section 77-38b-204;
(l) at rates authorized by the Legislature or set in statute, assess and collect the following interest and fees:
(i) a fee to cover the administrative costs of collection on accounts administered by the office;
(ii) a late penalty fee that may not be more than 10% of the account receivable on accounts administered by the office;
(iii) an interest charge that is:
(A) the postjudgment interest rate established by Section 15-1-4 in judgments established by the courts; or
(B) not more than 2% above the prime rate as of July 1 of each fiscal year for accounts receivable for which no court judgment has been entered; and
(iv) fees to collect accounts receivable for higher education;
(m) collect reasonable attorney fees and reasonable costs of collection that are related to the collection of receivables under this chapter;
(n) for a case that is referred to the office or in which the office is a judgment creditor, file a motion or other document related to the office or the accounts receivable in that case, including a satisfaction of judgment, in accordance with the Utah Rules of Civil Procedure;
(o) ensure that judgments for which the office is the judgment creditor are renewed, as necessary;
(p) notwithstanding Section 63G-2-206, share records obtained under Subsection (4)(k) with private sector vendors under contract with the state to assist state agencies in collecting

debts owed to the state agencies without changing the classification of any private, controlled, or protected record into a public record;

(q) enter into written agreements with other governmental agencies to obtain and share information for the purpose of collecting state accounts receivable;

(r) collect accounts receivable for a political subdivision of the state if the political subdivision enters into an agreement or contract with the office under Title 11, Chapter 13, Interlocal Cooperation Act, for the office to collect the political subdivision's accounts receivable; and

(s) notwithstanding Section 63A-5b-303, hold title to real property if doing so is incidental to execution or collection proceedings.

(5) The office shall ensure that:

(a) a record obtained by the office or a private sector vendor under Subsection (4)(p):

(i) is used only for the limited purpose of collecting accounts receivable; and

(ii) is subject to federal, state, and local agency records restrictions; and

(b) any individual employed by, or formerly employed by, the office or a private sector vendor as referred to in Subsection (4)(p) is subject to:

(i) the same duty of confidentiality with respect to the record imposed by law on officers and employees of the state agency from which the record was obtained; and

(ii) any civil or criminal penalties imposed by law for violations of lawful access to a private, controlled, or protected record.

(6)

(a) The office shall have authority to collect a civil accounts receivable or a civil judgment of restitution ordered by a court as a result of prosecution for a criminal offense that have been transferred to the office under Subsection 77-18-114(1) or (2).

(b) The office may not assess:

(i) the interest charge established by the office under Subsection (4)(g)(iii)(B) on an account receivable that is subject to the postjudgment interest rate established by Section 15-1-4; and

(ii) an interest charge on an amount from a criminal accounts receivable until the amount is entered on the civil judgment docket.

(7) The office may require a state agency to:

(a) transfer collection responsibilities to the office or the office's designee according to time limits established by the office;

(b) make annual progress towards implementing collection techniques and improved accounts receivable collections;

(c) use the state's accounts receivable system or develop systems that are adequate to properly account for and report the state's receivables;

(d) develop and implement internal policies and procedures that comply with the collections policies and guidelines established by the office;

(e) provide internal accounts receivable training to staff involved in the management and collection of receivables as a supplement to statewide training;

(f) bill for and make initial collection efforts of the state agency's receivables up to the time the accounts must be transferred; and

(g) submit quarterly receivable reports to the office that identify the age, collection status, and funding source of each receivable.

(8) All interest, fees, and other amounts authorized to be collected by the office under Subsection (4)(l):

(a) are penalties that may be charged by the office;

(b) do not require an order from a court for the office to assess or collect;

(c) are not compensation for actual pecuniary loss;
(d) for a civil accounts receivable:
(i) begin to accrue on the day on which the civil accounts receivable is entered on the civil judgment docket under Subsection 77-18-114(1) or (2); and
(ii) may be collected as part of the civil accounts receivable;
(e) for a civil judgment of restitution:
(i) begin to accrue on the day on which the civil judgment of restitution is entered on the civil judgment docket under Subsection 77-18-114(1); and
(ii) may be collected as part of the civil judgment of restitution;
(f) for all other accounts receivable:
(i) begin to accrue on the day on which the accounts receivable is transferred to the office, even if there is no court order on the day on which the accounts receivable is transferred; and
(ii) may be collected as part of the accounts receivable; and
(g) may be waived by:
(i) the office; or
(ii) if the interest, fee, or other amount is charged in error, the court.

Amended by Chapter 59, 2025 General Session
Amended by Chapter 526, 2025 General Session

63A-3-502.5 Debtor's online access to debt amount.

(1) As used in this section, "debt" means:
(a) an accounts receivable; or
(b) a criminal accounts receivable.
(2) On or before December 31, 2022, the office shall provide a debtor who has a debt transferred to the office online access to the debtor's account that identifies:
(a) the total balance the debtor owes for a debt;
(b)
(i) each person to whom the debtor owes a debt; or
(ii) if the person's name is redacted by a court or a state agency with authority to redact, another identifier for the debt in place of the person's name;
(c) for each person the debtor owes:
(i) the debtor's original balance for a debt; and
(ii) the debtor's current balance for a debt;
(d) the current interest rate for a debt; and
(e) the history of:
(i) any additional charge added to a debt including:
(A) the reason for the charge;
(B) the total amount of the charge; and
(C) the date the charge was added; and
(ii) any payment made by the debtor including:
(A) the debt to which a payment was applied; and
(B) whether the payment was applied to an administrative cost, accrued interest, the principal, or other fee.

Enacted by Chapter 323, 2022 General Session

63A-3-503 Legal services.

The Office of the Attorney General shall:
(1) provide to the office all legal services and advice related to the collection of accounts receivable:
(a) owed to the state; or
(b) for which the office has collection responsibilities; and
(2) establish policies governing:
(a) legal matters involving accounts receivable; and
(b) litigation of past-due accounts receivable.

Amended by Chapter 74, 2013 General Session

63A-3-504 Rulemaking authority -- Collection techniques.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules:
(1) providing details, as necessary, for the distribution of debts collected in accordance with the priorities under Subsection 63A-3-505(3);
(2) to govern collection techniques, which may include the use of:
(a) credit reporting bureaus;
(b) collection agencies;
(c) garnishments;
(d) liens;
(e) judgments; and
(f) administrative offsets; and
(3) establishing that any portion of a payment for a civil judgment of restitution be credited to principal first and, if the principal amount owed for the civil judgment of restitution has been satisfied, the remainder of the payment be credited to interest that has accrued on the principal.

Amended by Chapter 260, 2021 General Session

63A-3-505 State Debt Collection Fund.

(1) There is created an expendable special revenue fund entitled the "State Debt Collection Fund."
(2) The fund consists of:
(a) all amounts appropriated to the fund under this chapter;
(b) fees and interest described in Subsection 63A-3-502(4)(g); and
(c) except as otherwise provided by law, all postjudgment interest collected by the office or the state, except postjudgment interest on a civil judgment of restitution.
(3) Money in this fund shall be overseen by the office and may be used to pay for:
(a) the costs of the office in the performance of the office's duties;
(b) a civil judgment of restitution for which debt is owed;
(c) interest accrued that is associated with the debt;
(d) principal on the debt to the state agencies or other entities that placed the receivable for collection;
(e) other legal obligations including those ordered by a court; and
(f) deputy court clerks who work exclusively on debt collection activities.
(4)
(a) The fund may collect interest.
(b) All interest earned from the fund shall be deposited into the General Fund.

(5) The office shall ensure that money remaining in the fund at the end of the fiscal year that is not committed under the priorities established under Subsection (3) is deposited into the General Fund.

Amended by Chapter 398, 2024 General Session

63A-3-506 Allocation of funds.

(1) Except as provided in Subsection (2), the money collected by the office less the office's fees shall be allocated on a prorated basis to the various revenue types that generated the accounts receivable.

(2) Notwithstanding the requirements of Subsection (1):

(a) federal cost allocation requirements for specific accounts receivable related to programs that are supported by federal funds take precedence over other cost allocation methods provided in this section; and

(b) the office shall use interest and fees collected on past due accounts receivable as provided in Section 63A-3-505.

Renumbered and Amended by Chapter 79, 2011 General Session

63A-3-507 Administrative garnishment order.

(1) Subject to Subsection (2), if a judgment is entered against a debtor, the office may issue an administrative garnishment order against the debtor's personal property, including wages, in the possession of or under the control of a party other than the debtor in the same manner and with the same effect as if the order was a writ of garnishment issued by a court with jurisdiction.

(2) The office may issue the administrative garnishment order if:

(a) the order is signed by the director or the director's designee; and

(b) the underlying debt is for:

(i) nonpayment of a civil accounts receivable or a civil judgment of restitution; or

(ii) nonpayment of a judgment, or abstract of judgment or award filed with a court, based on an administrative order for payment issued by an agency of the state.

(3) An administrative garnishment order issued in accordance with this section is subject to the procedures and due process protections provided by Rule 64D, Utah Rules of Civil Procedure, except as provided by Section 70C-7-103.

(4) An administrative garnishment order issued by the office shall:

(a) contain a statement that includes:

(i) if known:

(A) the nature, location, account number, and estimated value of the property; and

(B) the name, address, and phone number of the person holding the property;

(ii) whether any of the property consists of earnings;

(iii) the amount of the judgment and the amount due on the judgment; and

(iv) the name, address, and phone number of any person known to the plaintiff to claim an interest in the property;

(b) identify the defendant, including the defendant's name and last known address;

(c) notify the defendant of the defendant's right to reply to answers and request a hearing as provided by Rule 64D, Utah Rules of Civil Procedure; and

(d) state where the garnishee may deliver property.

(5) The office may, in the office's discretion, include in an administrative garnishment order:

(a) the last four digits of the defendant's Social Security number;

(b) the last four digits of the defendant's driver license number;
(c) the state in which the defendant's driver license was issued;
(d) one or more interrogatories inquiring:
(i) whether the garnishee is indebted to the defendant and, if so, the nature of the indebtedness;
(ii) whether the garnishee possesses or controls any property of the defendant and, if so, the nature, location, and estimated value of the property;
(iii) whether the garnishee knows of any property of the defendant in the possession or under the control of another and, if so:
(A) the nature, location, and estimated value of the property; and
(B) the name, address, and telephone number of the person who has possession or control of the property;
(iv) whether the garnishee is deducting a liquidated amount in satisfaction of a claim against the plaintiff or the defendant, whether the claim is against the plaintiff or the defendant, and the amount deducted;
(v) the date and manner of the garnishee's service of papers upon the defendant and any third party;
(vi) the dates on which any previously served writs of continuing garnishment were served; and
(vii) any other relevant information, including the defendant's position, rate of pay, method of compensation, pay period, and computation of the amount of the defendant's disposable earnings.

(6)
(a) A garnishee who acts in accordance with this section and the administrative garnishment issued by the office is released from liability unless an answer to an interrogatory is successfully controverted.
(b) Except as provided in Subsection (6)(c), if the garnishee fails to comply with an administrative garnishment issued by the office without a court or final administrative order directing otherwise, the garnishee is liable to the office for an amount determined by the court.
(c) The amount for which a garnishee is liable under Subsection (6)(b) includes:
(i)
(A) the value of the judgment; or
(B) the value of the property, if the garnishee shows that the value of the property is less than the value of the judgment;
(ii) reasonable costs; and
(iii) attorney fees incurred by the parties as a result of the garnishee's failure.
(d) If the garnishee shows that the steps taken to secure the property were reasonable, the court may excuse the garnishee's liability in whole or in part.

(7)
(a) If the office has reason to believe that a garnishee has failed to comply with the requirements of this section in the garnishee's response to a garnishment order issued under this section, the office may submit a motion to the court requesting the court to issue an order against the garnishee requiring the garnishee to appear and show cause why the garnishee should not be held liable under this section.
(b) The office shall attach to a motion under Subsection (7)(a) a statement that the office has in good faith conferred or attempted to confer with the garnishee in an effort to settle the issue without court action.

(8) A person is not liable as a garnishee for drawing, accepting, making, or endorsing a negotiable instrument if the instrument is not in the possession or control of the garnishee at the time of service of the administrative garnishment order.

(9)

(a) A person indebted to the defendant may pay to the office the amount of the debt or an amount to satisfy the administrative garnishment.

(b) The office's receipt of an amount described in Subsection (9)(a) discharges the debtor for the amount paid.

(10) A garnishee may deduct from the property any liquidated claim against the defendant that is due to the garnishee at the time of service.

(11)

(a) If a debt to the garnishee is secured by property, the office:

(i) is not required to apply the property to the debt when the office issues the administrative garnishment order; and

(ii) may obtain a court order authorizing the office to buy the debt and requiring the garnishee to deliver the property.

(b) Notwithstanding Subsection (11)(a)(i):

(i) the administrative garnishment order remains in effect; and

(ii) the office may apply the property to the debt.

(c) The office or a third party may perform an obligation of the defendant and require the garnishee to deliver the property upon completion of performance or, if performance is refused, upon tender of performance if:

(i) the obligation is secured by property; and

(ii)

(A) the obligation does not require the personal performance of the defendant; and

(B) a third party may perform the obligation.

(12)

(a) The office may issue a continuing garnishment order against a nonexempt periodic payment.

(b) This section is subject to the Utah Exemptions Act.

(c) A continuing garnishment order issued in accordance with this section applies to payments to, or for the benefit of, the defendant from the date of service upon the garnishee until the earliest of the following:

(i) the last periodic payment;

(ii) the judgment upon which the administrative garnishment order is issued is stayed, vacated, or satisfied in full; or

(iii) the office releases the order.

(d) No later than seven days after the last day of each payment period, the garnishee shall with respect to that period:

(i) answer each interrogatory;

(ii) serve an answer to each interrogatory on the office, the defendant, and any other person who has a recorded interest in the property; and

(iii) deliver the property to the office.

(e) If the office issues a continuing garnishment order during the term of a writ of continuing garnishment issued by a court, the order issued by the office:

(i) is tolled when a writ of garnishment or other income withholding is already in effect and is withholding greater than or equal to the maximum portion of disposable earnings described in Subsection (13);

(ii) is collected in the amount of the difference between the maximum portion of disposable earnings described in Subsection (13) and the amount being garnished by an existing writ of continuing garnishment if the maximum portion of disposable earnings exceed the existing writ of garnishment or other income withholding; and

(iii) shall take priority upon the termination of the current term of existing writs.

(13) The maximum portion of disposable earnings of an individual subject to seizure in accordance with this section is the lesser of:

(a) 25% of the defendant's disposable earnings for any other judgment; or

(b) the amount by which the defendant's disposable earnings for a pay period exceeds the number of weeks in that pay period multiplied by 30 times the federal minimum wage as provided in 29 U.S.C. Sec. 201 et seq., Fair Labor Standards Act of 1938.

(14)

(a) In accordance with the requirements of this Subsection (14), the office may, at its discretion, determine a dollar amount that a garnishee is to withhold from earnings and deliver to the office in a continuing administrative garnishment order issued under this section.

(b) The office may determine the dollar amount that a garnishee is to withhold from earnings under Subsection (14)(a) if the dollar amount determined by the office:

(i) does not exceed the maximum amount allowed under Subsection (13); and

(ii) is based on:

(A) earnings information received by the office directly from the Department of Workforce Services; or

(B) previous garnishments issued to the garnishee by the office where payments were received at a consistent dollar amount.

(c) The earnings information or previous garnishments relied on by the office under Subsection (14)(b)(ii) to calculate a dollar amount under this Subsection (14) shall be:

(i) for one debtor;

(ii) from the same employer;

(iii) for two or more consecutive quarters; and

(iv) received within the last six months.

(15)

(a) A garnishee who provides the calculation for withholdings on a defendant's wages in the garnishee's initial response to an interrogatory in an administrative garnishment order under this section is not required to provide the calculation for withholdings after the garnishee's initial response if:

(i) the garnishee's accounting system automates the amount of defendant's wages to be paid under the garnishment; and

(ii) the defendant's wages do not vary by more than five percent from the amount disclosed in the garnishee's initial response.

(b) Notwithstanding Subsection (15)(a), upon request by the office or the defendant, a garnishee shall provide, for the last pay period or other pay period specified by the office or defendant, a calculation of the defendant's wages and withholdings and the amount garnished.

(16)

(a) A garnishee under an administrative garnishment order under this section is entitled to receive a garnishee fee in the amount of:

(i) $10 per garnishment order, for a noncontinuing garnishment order; and

(ii) $25, as a one-time fee, for a continuing garnishment order.

(b) A garnishee may deduct the amount of the garnishee fee from the amount to be sent to the office under the administrative garnishment order if the amount to be sent exceeds the amount of the fee.
(c) If the amount to be sent to the office under an administrative garnishment order does not exceed the amount of the garnishee fee:
(i) the garnishee shall notify the office that the amount to be sent does not exceed the amount of the garnishee fee; and
(ii)
(A) the garnishee under a noncontinuing garnishment order shall return the administrative garnishment order to the office and the office shall pay the garnishee the garnishee fee; or
(B) the garnishee under a continuing garnishment order shall delay sending any amount to the office until the amount to be sent exceeds the garnishee fee.
(d) If, upon receiving the administrative garnishment order, the garnishee does not possess or control any property, including money or wages, in which the defendant has an interest:
(i) the garnishee under a continuing or noncontinuing garnishment order shall, except as provided in Subsection (16)(d)(ii), return the administrative garnishment order to the office, and the office shall pay the garnishee the applicable garnishee fee; or
(ii) if the garnishee under a continuing garnishment order believes that the garnishee will, within 90 days after issuance of the continuing garnishment order, come into possession or control of property in which the defendant owns an interest, the garnishee may retain the garnishment order and deduct the garnishee fee for a continuing garnishment once the amount to be remitted exceeds the garnishee fee.
(17) Section 78A-2-216 does not apply to an administrative garnishment order issued under this section.
(18) An administrative garnishment instituted in accordance with this section shall continue to operate and require that a person withhold the nonexempt portion of earnings at each succeeding earning disbursement interval until the total amount due in the garnishment is withheld or the garnishment is released in writing by the court or office.
(19) If the office issues an administrative garnishment order under this section to collect an amount owed on a civil accounts receivable or a civil judgment of restitution, the administrative garnishment order shall be construed as a continuation of the criminal action for which the civil accounts receivable or civil judgment of restitution arises if the amount owed is from a fine, fee, or restitution for the criminal action.

Amended by Chapter 237, 2026 General Session

63A-3-508 Written request to receive a credit for a restitution payment -- Eligibility requirements.
(1) As used in this section:
(a) "Debt" means any amount that:
(i) an individual owes as part of a criminal judgment; and
(ii) is collected and managed by the office.
(b) "Eligible individual" means an individual who meets the requirements of Subsection (2).
(c) "Qualifying debt" means a debt that is a fine, a fee, a surcharge, or any other money, that is deposited into the General Fund by the state treasurer.
(d) "Voluntary payment" means a payment on a debt that is made before, or in the absence of, a legal proceeding or administrative action to collect or enforce the collection of the debt.
(2) An individual is eligible for a credit described in Subsection (3) if:

(a) the individual submits a written request, on or after May 1, 2024, and before May 1, 2026, to the office requesting the credit;
(b) the individual owes a debt of $3,000 or greater at the time of the written request; and
(c) the individual was sentenced before July 1, 2021, for a criminal judgment for which the individual owes a debt.

(3)
(a) If an eligible individual makes a voluntary payment toward any restitution owed by the individual, the office shall issue a credit against any qualifying debt owed by the individual in the amount of 75% of the amount applied to restitution.
(b) The office may issue the credit described in Subsection (3) to any voluntary payment made toward restitution before the written request was submitted as described in Subsection (2).

(4) The office shall provide:
(a) reasonable notice of eligibility before May 1, 2026, to any individual that may be eligible for the credit as described in Subsection (2)(b) and (c); and
(b) if an individual submits a written request as described in Subsection (2)(a), a written confirmation as to whether the individual is an eligible individual and will receive a credit as described in Subsection (3).

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules regarding the administration of this section.

(6) By no later than November 30, 2025, the office shall report to the Judiciary Interim Committee on the outcomes of this section and whether the eligibility period described in Subsection (2) should be extended beyond May 1, 2026.

(7) Nothing in this section authorizes the office to reimburse or refund an individual for any payment on a debt.

Enacted by Chapter 389, 2024 General Session

63A-3-509 Suspension of interest on certain accounts receivable during and subsequent to incarceration.

Beginning on January 1, 2027, unless prohibited by another provision of law or a court order, or unless an account receivable contains restitution as defined in Section 77-38b-102, the office shall, upon receipt of a notification from a county jail in accordance with Section 17-72-803 or a notification from the Department of Corrections in accordance with Subsection 64-13-23(9), suspend the accrual of interest on an individual's accounts receivable under Subsection 63A-3-502(4)(g):

(1) during any period that the individual is incarcerated in a county jail or a state prison, if the period is 90 or more consecutive days; and

(2) for a period of 180 days after the day on which the individual is released from a period of incarceration as described in Subsection (1).

Amended by Chapter 17, 2025 Special Session 1

Chapter 4
Risk Management

Part 1

Risk Manager

63A-4-101.1 Definitions.

As used in this chapter:

(1) "Captive insurance company" means the same as that term is defined in Section 31A-37-102.

(2) "Covered entity" means a participating entity of:

(a) the Risk Management Fund; or

(b) any captive insurance company created by the risk manager.

Enacted by Chapter 33, 2021 General Session

63A-4-101.5 Risk manager -- Appointment -- Duties.

(1)

(a) There is created within the department the Division of Risk Management.

(b) The executive director shall, with the approval of the governor, appoint a risk manager as the division director, who shall be qualified by education and experience in the management of general property and casualty insurance.

(2) The risk manager shall:

(a) except as provided in Subsection (4), acquire and administer the following purchased by the state or any captive insurance company created by the risk manager:

(i) all property and casualty insurance;

(ii) reinsurance of property and casualty insurance; and

(iii) subject to Section 34A-2-203, workers' compensation insurance;

(b) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) prescribing reasonable and objective underwriting and risk control standards for:

(A) all covered entities of the Risk Management Fund; and

(B) any captive insurance company created by the risk manager;

(ii) prescribing the risks to be covered by the Risk Management Fund and the extent to which these risks will be covered;

(iii) prescribing the properties, risks, deductibles, and amount limits eligible for payment out of the Risk Management Fund;

(iv) prescribing procedures for making claims and proof of loss; and

(v) establishing procedures for the resolution of disputes relating to coverage or claims, which may include binding arbitration;

(c) implement a risk management and loss prevention program for covered entities for the purpose of reducing risks, accidents, and losses to assist covered entities in fulfilling their responsibilities for risk control and safety;

(d) coordinate and cooperate with any covered entity having responsibility to manage and protect state properties, including:

(i) the state fire marshal;

(ii) the director of the Division of Facilities Construction and Management;

(iii) the Department of Public Safety;

(iv) institutions of higher education;

(v) school districts; and

(vi) charter schools;

(e) maintain records necessary to fulfill the requirements of this section;

(f) manage the Risk Management Fund and any captive insurance company created by the risk manager in accordance with economically and actuarially sound principles to produce adequate reserves for the payment of contingencies, including unpaid and unreported claims, and may purchase any insurance or reinsurance considered necessary to accomplish this objective; and

(g) inform the covered entity's governing body and the governor when any covered entity fails or refuses to comply with reasonable risk control recommendations made by the risk manager.

(3) Before the effective date of any rule, the risk manager shall provide a copy of the rule to each covered entity affected by it.

(4) The risk manager may not use a captive insurance company created by the risk manager to purchase:

(a) workers' compensation insurance;

(b) health insurance; or

(c) life insurance.

Amended by Chapter 169, 2022 General Session

63A-4-102 Risk manager -- Powers.

(1) The risk manager may:

(a) enter into contracts;

(b) form one or more captive insurance companies authorized under Title 31A, Chapter 37, Captive Insurance Companies Act;

(c) purchase insurance or reinsurance;

(d) adjust, settle, and pay claims;

(e) pay expenses and costs;

(f) study the risks of all covered entities and properties;

(g) issue certificates of coverage or insurance for covered entities with respect to any risks covered by the Risk Management Fund or any captive insurance company created by the risk manager;

(h) make recommendations about risk management and risk reduction strategies to covered entities;

(i) in consultation with the attorney general, prescribe insurance, indemnification, and liability provisions to be included in all state contracts;

(j) review covered entity building construction, major remodeling plans, program plans, and make recommendations to the covered entity about needed changes to address risk considerations;

(k) attend covered entity planning and management meetings when necessary;

(l) review any proposed legislation and communicate with legislators and legislative committees about the liability or risk management issues connected with any legislation; and

(m) solicit any needed information about covered entity plans, programs, or risks necessary to perform the risk manager's responsibilities under this part.

(2)

(a) The risk manager may expend money from the Risk Management Fund to procure and provide coverage to all covered entities and their indemnified employees, except those entities or employees specifically exempted by statute.

(b) The risk manager shall apportion the costs of that coverage according to the requirements of this part.

(3) Before charging a rate, fee, or other amount to an executive branch agency, or to a subscriber of services other than an executive branch agency, the director shall:

(a) submit the proposed rates, fees, or other amount and cost analysis to the Rate Committee established in Section 63A-1-114; and
(b) obtain the approval of the Legislature as required by Section 63J-1-410.
(4) The director shall conduct a market analysis by July 1, 2005, and periodically thereafter, of proposed rates and premiums, which analysis shall include a comparison of the division's rates and premiums with the rates and premiums of other public or private sector providers where comparable services and rates are reasonably available.

Amended by Chapter 169, 2022 General Session

63A-4-103 Risk management -- Duties of covered entities.
(1)
(a) Unless expressly authorized by statute, a covered entity may not:
(i) purchase insurance or self-fund any risk unless authorized by the risk manager; or
(ii) procure or provide liability insurance for the state.
(b)
(i) Notwithstanding the provisions of Subsection (1)(a), the Utah Board of Higher Education may authorize higher education institutions to purchase insurance for, or self-fund, risks associated with their programs and activities that are not covered through the risk manager.
(ii) The Utah Board of Higher Education shall provide copies of those purchased policies to the risk manager.
(iii) The Utah Board of Higher Education shall ensure that the state is named as additional insured on any of those policies.
(2) Each covered entity shall:
(a) comply with reasonable risk related recommendations made by the risk manager;
(b) participate in risk management training activities conducted or sponsored by the risk manager;
(c) include the insurance, indemnification, and liability provisions prescribed by the risk manager in all state contracts, together with a statement certifying to the other party to the contract that the insurance and liability provisions in the contract are those prescribed by the risk manager;
(d) upon request of the risk manager, provide written notice to the risk manager that construction and major remodeling plans relating to covered entity buildings and facilities to be covered by the Risk Management Fund are available for review at each principal design stage, for risk control purposes, and make them available to the risk manager for review and to provide recommendations; and
(e) cooperate fully with requests from the risk manager for covered entity planning, program, or risk related information, and allow the risk manager to attend covered entity planning and management meetings.
(3) Failure to include in the contract the provisions required by Subsection (2)(c) does not make the contract unenforceable by the state.

Amended by Chapter 33, 2021 General Session

63A-4-104 Course-of-construction insurance for facilities constructed by This is the Place Foundation.

The risk manager may provide course-of-construction insurance for facilities constructed by This is the Place Foundation at This is the Place State Park and bill the Division of State Parks for the cost of the insurance.

Amended by Chapter 280, 2021 General Session

Part 2
Risk Management Fund

63A-4-201 Risk Management Fund created -- Administration -- Use.

(1)
(a) There is created the Risk Management Fund, which shall be administered by the risk manager.
(b) The fund shall cover property, liability, fidelity, and other risks as determined by the risk manager in consultation with the executive director.

(2) The risk manager may only use the Risk Management Fund to pay:
(a) insurance or reinsurance premiums;
(b) costs of administering the Risk Management Fund and any captive insurance companies created by the risk manager;
(c) loss adjustment expenses;
(d) risk control and related educational and training expenses; and
(e) loss costs which at the time of loss were eligible for payment under rules made by the risk manager in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) In addition to any money appropriated to the Risk Management Fund by the Legislature, the risk manager shall deposit with the state treasurer for credit to the Risk Management Fund:
(a) any insured loss or loss expenses paid by insurance or reinsurance companies;
(b) the gross amount of all premiums and surcharges received under Section 63A-4-202;
(c) the net refunds from cancelled insurance policies necessary to self-insure previously insured risks, with the balance of the proceeds to be refunded to the previously insured entities;
(d) all refunds, returns, or dividends from insurance carriers not specifically covered in Subsections (3)(a), (b), and (c);
(e) savings from amounts otherwise appropriated for participation in the fund; and
(f) all net proceeds from sale of salvage and subrogation recoveries from adverse parties related to losses paid out of the fund.

(4) The state treasurer shall invest the Risk Management Fund in accordance with Section 63A-4-208 and deposit all interest or other income earned from investments into the Risk Management Fund.

Amended by Chapter 169, 2022 General Session

63A-4-202 Determination of insurance premiums -- Information furnished by covered entities -- Notice to covered entities.

(1) Each covered entity shall provide the risk manager with all reasonable information necessary to compute insurance premiums whenever the risk manager requests that information.

(2)
(a) The risk manager shall charge to each entity that receives insurance coverage from the Risk Management Fund or any captive insurance company created by the risk manager its proportionate share of the cost incurred based upon actuarially sound rating techniques.

(b) The risk manager shall include in the premium determined under this section all costs of operating the Risk Management Fund as stated in Section 63A-4-201 and operating any captive insurance company created by the risk manager.

(3) To enable each covered entity to meet its budgeting requirements, the risk manager shall provide each covered entity with projected insurance costs for the next two fiscal years within the time limits required.

Amended by Chapter 33, 2021 General Session

63A-4-203 Refusal of agency to pay charges -- Notice to the Division of Finance for collection.

(1) If any agency of the state refuses to remit any payment as charged by the risk manager within 30 days after the date due, the risk manager may certify to the director of the Division of Finance the fact of the refusal and the amount of the delinquent payment, together with a request that the amount be transferred from funds of the delinquent agency to the Risk Management Fund.

(2) The risk manager shall mail a copy of the certification and request to the delinquent agency.

(3) The risk manager shall resolve claims against the fund in an expeditious manner.

Renumbered and Amended by Chapter 212, 1993 General Session

63A-4-204 School district participation in Risk Management Fund.

(1)

(a) For the purpose of this section, action by a public school district shall be taken upon resolution by a majority of the members of the school district's board of education.

(b)

(i) Upon approval by the state risk manager and the board of education of the school district, a public school district may participate in the Risk Management Fund or any captive insurance company created by the risk manager, and may permit a foundation established under Section 53E-3-403 to participate in the Risk Management Fund or any captive insurance company created by the risk manager.

(ii) Upon approval by the state risk manager and the State Board of Education, a state public education foundation may participate in the Risk Management Fund or any captive insurance company created by the risk manager.

(c) Subject to any cancellation or other applicable coverage provisions, either the state risk manager or the public school district may terminate participation in the Risk Management Fund.

(2) The state risk manager shall contract for all insurance, reinsurance, legal, loss adjustment, consulting, loss control, safety, and other related services necessary to support the insurance programs provided to a participating public school district, except that all supporting legal services are subject to the prior approval of the state attorney general.

(3) Each public school district participating in the Risk Management Fund shall comply with Section 63A-4-103.

(4)

(a) Each year, the risk manager shall prepare, in writing, the information required by Subsection (4)(b) regarding the coverage against legal liability provided a school district employee of this state:

(i) by the Risk Management Fund or any captive insurance company created by the risk manager;
(ii) under Title 63G, Chapter 7, Governmental Immunity Act of Utah; and
(iii) under Title 52, Chapter 6, Reimbursement of Legal Fees and Costs to Officers and Employees Act.

(b)
(i) The information described in Subsection (4)(a) shall include:
(A) the eligibility requirements, if any, to receive the coverage;
(B) the basic nature of the coverage for a school district employee, including what is not covered; and
(C) whether the coverage is primary or in excess of any other coverage the risk manager knows is commonly available to a school district employee in this state.
(ii) The information described in Subsection (4)(a) may include:
(A) comparisons the risk manager considers beneficial to a school district employee between:
(I) the coverage described in Subsection (4)(a); and
(II) other coverage the risk manager knows is commonly available to a school district employee in this state; and
(B) any other information the risk manager considers appropriate.

(c) By no later than July 1 of each year, the risk manager shall provide the information prepared under this Subsection (4) to each school district that participates in the Risk Management Fund or any captive insurance company created by the risk manager.

(d) A school district that participates in the Risk Management Fund shall provide a copy of the information described in Subsection (4)(c) to each school district employee within the school district no later than the first day of each school year.

(e) If a school district hires an employee after the first day of the school year, no later than 10 days after the day on which the employee is hired, the school district shall provide the information described in Subsection (4)(c) to the employee.

Amended by Chapter 33, 2021 General Session

63A-4-204.5 Charter school participation in Risk Management Fund.

(1) A charter school established under the authority of Title 53G, Chapter 5, Charter Schools, may participate in the Risk Management Fund or any captive insurance company created by the risk manager upon the approval of the state risk manager and the governing body of the charter school.

(2) Each charter school participating in the Risk Management Fund shall comply with Section 63A-4-103.

(3)
(a) Each year, the risk manager shall prepare, in writing, the information required by Subsection (3)(b) regarding the coverage against legal liability provided a charter school employee of this state:
(i) by the Risk Management Fund or any captive insurance company created by the risk manager;
(ii) under Title 63G, Chapter 7, Governmental Immunity Act of Utah; and
(iii) under Title 52, Chapter 6, Reimbursement of Legal Fees and Costs to Officers and Employees Act.

(b)
(i) The information described in Subsection (3)(a) shall include:

(A) the eligibility requirements, if any, to receive the coverage;
(B) the basic nature of the coverage for a charter school employee, including what is not covered; and
(C) whether the coverage is primary or in excess of any other coverage the risk manager knows is commonly available to a charter school employee in this state.
(ii) The information described in Subsection (3)(a) may include:
(A) comparisons the risk manager considers beneficial to a charter school employee between:
(I) the coverage described in Subsection (3)(a); and
(II) other coverage the risk manager knows is commonly available to a charter school employee in this state; and
(B) any other information the risk manager considers appropriate.
(c) By no later than July 1 of each year, the risk manager shall provide the information prepared under this Subsection (3) to each charter school that participates in the Risk Management Fund or any captive insurance company created by the risk manager.
(d) A charter school that participates in the Risk Management Fund or any captive insurance company created by the risk manager shall provide a copy of the information described in Subsection (3)(c) to each charter school employee within the charter school no later than the first day of each school year.
(e) If a charter school hires an employee after the first day of the school year, no later than 10 days after the day on which the employee is hired, the charter school shall provide the information described in Subsection (3)(c) to the employee.

Amended by Chapter 33, 2021 General Session

63A-4-205.5 Risk management -- Coverage of the Utah Communications Authority.

The Utah Communications Authority established under authority of Title 63H, Chapter 7a, Utah Communications Authority Act, may participate in the Risk Management Fund or any captive insurance company created by the risk manager.

Amended by Chapter 33, 2021 General Session

63A-4-206 Limits on use of risk management data as evidence.

Notwithstanding any other provisions of law, any reports, recommendations, surveys, schedules, lists, or data compiled, or action taken or not taken by or at the request of the risk manager to identify, evaluate, or plan the safety enhancement or risk reduction of any potential accident sites or other hazards related to any entity covered by the Risk Management Fund may not be admitted into evidence in any court, or used for any other purposes in any action for damages arising from any occurrence at a location mentioned or addressed in those reports, recommendations, surveys, schedules, lists, or data.

Renumbered and Amended by Chapter 212, 1993 General Session

63A-4-207 Records of risk management.

(1) A record provided to the Division of Risk Management by any governmental entity or political subdivision covered by the Risk Management Fund for the purpose of risk control or claims activities of the division shall be considered a record of the originating governmental entity or political subdivision for purposes of Title 63G, Chapter 2, Government Records Access and

Management Act, if the originating governmental entity or political subdivision retains a copy of the record.

(2) Notwithstanding Subsection 63G-2-201(5), records may be exchanged between the Division of Risk Management and any governmental entity or political subdivision covered by the Risk Management Fund without meeting the requirements of Section 63G-2-206, provided that they are used only for purposes of risk control or claims activities.

Amended by Chapter 382, 2008 General Session

63A-4-208 Investment of Risk Management Fund.

(1) The state treasurer shall invest the assets of the Risk Management Fund created under Section 63A-4-201 with the primary goal of providing for the stability, income, and growth of the principal.

(2) Nothing in this section requires a specific outcome in investing.

(3) The state treasurer may deduct any administrative costs incurred in managing fund assets from earnings before distributing the earnings.

(4)

(a) The state treasurer may employ professional asset managers to assist in the investment of the assets of the funds.

(b) The treasurer may only provide compensation to asset managers from earnings generated by the funds' investments.

(5)

(a) The state treasurer shall invest and manage the assets of the funds as a prudent investor would by:

(i) considering the purposes, terms, distribution requirements, and other circumstances of the funds; and

(ii) exercising reasonable care, skill, and caution in order to meet the standard of care of a prudent investor.

(b) In determining whether the state treasurer has met the standard of care of a prudent investor, the judge or finder of fact shall:

(i) consider the state treasurer's actions in light of the facts and circumstances existing at the time of the investment decision or action, and not by hindsight; and

(ii) evaluate the state treasurer's investment and management decisions respecting individual assets:

(A) not in isolation, but in the context of a fund portfolio as a whole; and

(B) as a part of an overall investment strategy that has risk and return objectives reasonably suited to the funds.

Enacted by Chapter 33, 2021 General Session

Chapter 5b
Administration of State Facilities

Part 1
General Provisions

63A-5b-101 Title.

This chapter is known as "Administration of State Facilities."

Enacted by Chapter 152, 2020 General Session

63A-5b-102 Definitions.

As used in this chapter:

(1) "Capitol hill" means the same as that term is defined in Section 63O-1-101.

(2) "Compliance agency" means the same as that term is defined in Section 15A-1-202.

(3) "Director" means the division director, appointed under Section 63A-5b-302.

(4) "Division" means the Division of Facilities Construction and Management created in Section 63A-5b-301.

(5) "Institution of higher education" means the same as that term is defined in Section 53H-1-101.

(6) "Program document" means a final document that contains programming information.

(7) "Programming" means services to define the scope and purpose of an anticipated project, and may include:

(a) researching criteria applicable to the scope and purpose of an anticipated project;

(b) identifying the scale of the project and the type of facilities and the level of specialized functions that will be required;

(c) identifying and prioritizing values and goals that will impact the project, including institutional purposes, growth objectives, and cultural, technological, temporal, aesthetic, symbolic, economic, environmental, safety, sustainability, and other relevant criteria;

(d) evaluating functional efficiency, user comfort, building economics, environmental sustainability, and visual quality;

(e) identifying objectives for the project, including such elements as image, efficiencies, functionality, cost, and schedule;

(f) identifying and evaluating the constraints that will have an impact on the project such as legal requirements, financial constraints, location, access, visibility, and building services;

(g) developing standards such as area allowances, space allocation, travel distances, and furniture and equipment requirements;

(h) establishing general space quality standards related to such elements as lighting levels, equipment performance, acoustical requirements, security, and aesthetics;

(i) identifying required spaces;

(j) establishing sizes and relationships;

(k) establishing space efficiency factors or the ratio of net square footage to gross square footage; and

(l) documenting particular space requirements such as special HVAC, plumbing, power, lighting, acoustical, furnishings, equipment, or security needs.

(8) "Trust lands administration" means the School and Institutional Trust Lands Administration established in Section 53C-1-201.

(9) "Utah Board of Higher Education" means the Utah Board of Higher Education established in Section 53H-1-203.

Amended by Chapter 473, 2026 General Session

Part 3
Division of Facilities Construction and Management

63A-5b-301 Creation -- Administration.

There is created within the department the Division of Facilities Construction and Management, to be administered by a director.

Renumbered and Amended by Chapter 152, 2020 General Session

63A-5b-302 Director of division -- Appointment.

The executive director shall appoint the director of the division with the approval of the governor.

Renumbered and Amended by Chapter 152, 2020 General Session

63A-5b-303 Duties and authority of division.

(1)

(a) The division shall:

(i) subject to Subsection (1)(b), supervise and control the allocation of space, in accordance with legislative directive through annual appropriations acts, other legislation, or statute, to agencies in all buildings or space owned, leased, or rented by or to the state, except as provided in Subsection (3) or as otherwise provided by statute;

(ii) assure the efficient use of all building space under the division's supervision and control;

(iii) acquire title to all real property, buildings, fixtures, and appurtenances for use by the state or an agency, as authorized by the Legislature through an appropriation act, other legislation, or statute, subject to Subsection (1)(c);

(iv) except as otherwise provided by statute, hold title to all real property, buildings, fixtures, and appurtenances owned by the state or an agency;

(v) collect and maintain all deeds, abstracts of title, and all other documents evidencing title to or an interest in property belonging to the state or to the state's departments, except institutions of higher education and the trust lands administration;

(vi)

(A) periodically conduct a market analysis of proposed rates and fees; and

(B) include in a market analysis a comparison of the division's rates and fees with the rates and fees of other public or private sector providers of comparable services, if rates and fees for comparable services are reasonably available;

(vii) fulfill the division's responsibilities under Part 10, Energy Conservation and Efficiency, including responsibilitiesto implement the state building energy efficiency program under Section 63A-5b-1002;

(viii) except as provided in Subsection (2)(c), convey, lease, or dispose of division-owned real property for fair market value, as determined by the division;

(ix) administer grants from the Olympic and Paralympic Venues Grant Fund created in Section 63G-28-302 and provide reports to the Olympic and Paralympic Winter Games Coordination Committee as provided in Section 63G-28-202 and Section 63G-28-204; and

(x) take all other action that the division is required to do under this chapter or other applicable statute.

(b) In making an allocation of space under Subsection (1)(a)(i), the division shall conduct one or more studies to determine the actual needs of each agency.

(c) The division may, without legislative approval, acquire title to real property for use by the state or an agency if:
(i) the acquisition cost does not exceed $500,000, as estimated by the division; or
(ii) the real property is part or all of the consideration received in exchange for division-owned real property conveyed, leased, or disposed of under Subsection (1)(a)(viii).
(2) The division may:
(a) sue and be sued;
(b) as authorized by the Legislature, buy, lease, or otherwise acquire, by exchange or otherwise, and hold real or personal property necessary for the discharge of the division's duties;
(c) convey, lease, or dispose of vacant division-owned real property for less than fair market value, subject to the requirements of Part 9, Disposal of Division-owned Real Property; and
(d) take all other action necessary for carrying out the purposes of this chapter.
(3)
(a) The division may not supervise or control the allocation of space for an entity in the public education system.
(b) The division may not supervise or control capitol hill or any part of capitol hill.
(c)
(i) Subject to Subsection (3)(c)(ii), the supervision and control of the allocation of space for an institution of higher education is reserved to the Utah Board of Higher Education.
(ii) The Utah Board of Higher Education shall consult and cooperate with the division in the establishment and enforcement of standards for the supervision and control of the allocation of space for an institution of higher education.
(d)
(i) Subject to Subsection (3)(d)(ii), the supervision and control of the allocation of space for the courts of record listed in Subsection 78A-1-101(1) is reserved to the Administrative Office of the Courts described in Section 78A-2-108.
(ii) The Administrative Office of the Courts shall consult and cooperate with the division in the establishment and enforcement of standards for the supervision and control of the allocation of space for the courts of record listed in Subsection 78A-1-101(1).
(4) Before the division charges a rate, fee, or other amount for a service provided by the division's internal service fund to an executive branch agency, or to a service subscriber other than an executive branch agency, the division shall:
(a) submit an analysis of the proposed rate, fee, or other amount to the rate committee created in Section 63A-1-114; and
(b) obtain the approval of the Legislature as required by Section 63J-1-410 or 63J-1-504.

Amended by Chapter 406, 2024 General Session
Amended by Chapter 425, 2024 General Session
Amended by Chapter 480, 2024 General Session

63A-5b-304 Agencies authorized to hold title -- Transfer of real property to a government entity.
(1) As used in this section:
(a) "Agency property" means real property, as described in Subsection (2), that:
(i) is owned by a title agency; and
(ii) the title agency no longer uses or needs.
(b) "Government entity" means:
(i) a local government entity, as defined in Section 63A-5b-901; or

(ii) a state agency, as defined in Section 63A-5b-901.
(c) "Title agency" means an agency listed in Subsection (2).
(2) Notwithstanding Section 63A-5b-303, an agency may hold title to real property that the agency occupies for a purpose other than the agency's administrative offices, if the agency is:
(a) the Department of Transportation;
(b) the Department of Natural Resources;
(c) the Department of Workforce Services;
(d) the Division of Forestry, Fire, and State Lands;
(e) the Utah National Guard;
(f) an area vocational center or other institution administered by the State Board of Education;
(g) the trust lands administration; or
(h) an institution of higher education.
(3) A title agency is not required to obtain an appraisal of agency property the title agency intends to transfer to a government entity if:
(a) the director of the title agency determines that the transfer is in the best interest of the title agency and the state; and
(b) the government entity to which ownership of the agency property is transferred will use the property for a public purpose.
(4) Subsection (3) does not apply if the title agency is required by law to receive fair market value in exchange for a transfer of agency property to a government entity.

Amended by Chapter 200, 2023 General Session

63A-5b-305 Duties and authority of director.
(1) The director shall:
(a) administer the division's duties and responsibilities;
(b) report all property acquired by the state, except property acquired by an institution of higher education or the trust lands administration, to the director of the Division of Finance for inclusion in the state's financial records;
(c) after receiving the notice required under Subsection 10-2-903(3)(b), file a written protest at or before the public hearing under Subsection 10-2-903(2)(b), if:
(i) it is in the best interest of the state to protest the boundary adjustment; or
(ii) the Legislature instructs the director to protest the boundary adjustment; and
(d) take all other action that the director is required to take under this chapter or other applicable statute.
(2) The director may:
(a) create forms and make policies necessary for the division or director to perform the division or director's duties;
(b)
(i) hire or otherwise procure assistance and service, professional, skilled, or otherwise, necessary to carry out the director's duties under this chapter; and
(ii) expend funds provided for the purpose described in Subsection (2)(b)(i) through annual operation budget appropriations or from other nonlapsing project funds;
(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules necessary for the division or director to perform the division or director's duties; and
(d) take all other action necessary for carrying out the purposes of this chapter.

Amended by Chapter 399, 2025 General Session

Part 4
Development of Capital Facilities

63A-5b-401 Definitions.

As used in this part:

(1)
(a) "Capital development project" means:
(i) a remodeling or site or utility improvement project with a total cost of $3,500,000 or more;
(ii) a new facility with a construction cost of $500,000 or more; or
(iii) a purchase of real property if an appropriation is requested and made for the purchase.
(b) "Capital development project" does not include a capital improvement project.

(2) "Capital improvement project" means:
(a) a remodeling, alteration, replacement, repair, or site or utility improvement project:
(i) with a total cost of less than $3,500,000; or
(ii)
(A) with a total cost of $3,500,000 or more; and
(B) that will be paid for with funds that are not state funds;
(b) a utility infrastructure improvement project that:
(i) has a total cost of less than $7,000,000;
(ii) consists of two or more projects that, if done separately, would each cost less than $3,500,000; and
(iii) the division determines is more cost effective or feasible to be completed as a single project; or
(c) a new facility with a total construction cost of less than $500,000.

(3)
(a) "New facility" means a new building constructed on state property regardless of the source of the funding that pays for construction of the new building.
(b) "New facility" includes:
(i) an addition to an existing building; and
(ii) the enclosure of space that was not previously fully enclosed.
(c) "New facility" does not include:
(i) the replacement of state-owned space that is demolished or that is otherwise removed from state use, if the total construction cost of the replacement space is less than $3,500,000; or
(ii) the construction of facilities that do not fully enclose a space.

(4) "Replacement cost" means, as determined by the Division of Risk Management:
(a) for state facilities, excluding auxiliary facilities as defined by the director, the cost to replace those facilities; and
(b) for infrastructure, as defined by the director, the cost to replace the infrastructure.

(5) "State funds" means public money appropriated by the Legislature.

Enacted by Chapter 152, 2020 General Session

63A-5b-402 Capital development process -- Approval requirements.

(1) Except as provided in Section 63A-5b-404, the division shall, on behalf of all agencies, submit capital development project recommendations and priorities to the Legislature for approval and prioritization.
(2)
(a) An agency may request an appropriation for the programming of a capital development project by submitting the request to the division for transmittal to the Legislature.
(b) An agency may, but is not required to, submit a completed feasibility study in connection with a request described in Subsection (2)(a).
(c) An agency may request an appropriation for the design and construction of a capital development project by submitting the request and a program document to the division for transmittal to the Legislature.
(3) The division may not transmit to the Legislature a request described in Subsection (2)(c) unless the agency submits a program document for the capital development project.
(4)
(a) The division shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that establish standards and requirements for:
(i) a capital development project; and
(ii) if submitted, a feasibility study.
(b) The rules shall include:
(i) a deadline by which an agency is required to submit a capital development project request;
(ii) conditions under which an agency may modify the agency's capital development project request after the agency submits the request, and requirements applicable to a modification; and
(iii) requirements for the contents of a feasibility study, including:
(A) the need for the capital development project;
(B) the appropriateness of the scope of the capital development project;
(C) any private funding for the capital development project;
(D) the economic and community impacts of the capital development project;
(E) a space utilization plan developed in accordance with rules made by the division under Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
(F) a capital budget estimate approved by the division.
(5) The division shall verify the completion and accuracy of a feasibility study or program document that an agency submits under Subsection (2) prior to submitting capital development project recommendations and priorities under Subsection (1).

Amended by Chapter 473, 2026 General Session

63A-5b-403 Institutions of higher education -- Capital development projects -- Dedicated and nondedicated projects -- Recommendations and prioritization.

(1) As used in this section:
(a) "Dedicated project" has the same meaning as that term is defined in:
(i) Section 53H-9-601, for a capital development project under Title 53H, Chapter 9, Part 6, Technical College Leasing and Capital Development; or
(ii) Section 53H-9-501, for a capital development project under Title 53H, Chapter 9, Part 5, General Capital Developments.
(b) "Nondedicated project" has the same meaning as that term is defined in:
(i) Section 53H-9-601, for a capital development project under Title 53H, Chapter 9, Part 6, Technical College Leasing and Capital Development; or

(ii) Section 53H-9-501, for a capital development project under Title 53H, Chapter 9, Part 5, General Capital Developments.

(2)

(a) The division shall submit recommendations to the Legislature in accordance with:

(i) Section 53H-9-604, for a dedicated project under Title 53H, Chapter 9, Part 6, Technical College Leasing and Capital Development; or

(ii) Section 53H-9-504, for a dedicated project under Title 53H, Chapter 9, Part 5, General Capital Developments.

(b) A dedicated project is not subject to prioritization by the division.

(3)

(a) The division shall prioritize nondedicated projects in accordance with:

(i) Section 63A-5b-402; and

(ii)

(A) Section 53H-9-604, for a nondedicated project under Title 53H, Chapter 9, Part 6, Technical College Leasing and Capital Development; or

(B) Section 53H-9-504, for a nondedicated project under Title 53H, Chapter 9, Part 5, General Capital Developments.

(b) In the division's scoring process for prioritizing nondedicated projects, the division shall give more weight to a request that is designated as a higher priority by the Utah Board of Higher Education than a request that is designated as a lower priority by the Utah Board of Higher Education only for determining the order of prioritization among requests submitted by the Utah Board of Higher Education.

(4) The division shall require that an institution of higher education that submits a request for a capital development project address whether and how, as a result of the project, the institution of higher education will:

(a) offer courses or other resources that will help meet demand for jobs, training, and employment in the current market and the projected market for the next five years;

(b) respond to individual skilled and technical job demand over the next three, five, and 10 years;

(c) respond to industry demands for trained workers;

(d) help meet commitments made by the Governor's Office of Economic Development, including relating to training and incentives;

(e) respond to changing needs in the economy; and

(f) respond to demands for online or in-class instruction, based on demographics.

(5) The division shall:

(a)

(i) assist institutions of higher education in providing the information required by Subsection (4); and

(ii) verify the completion and accuracy of the information submitted by an institution of higher education under Subsection (4);

(b) assist the Utah Board of Higher Education to fulfill the requirements of Section 53H-9-603 in connection with the finding that the division is required to make under Subsection 53H-9-603(4)(b); and

(c) assist the Utah Board of Higher Education in submitting a list of dedicated projects to the division for approval and nondedicated projects to the division for recommendation and prioritization pursuant to Section 53H-9-504.

Amended by Chapter 343, 2026 General Session

63A-5b-404 Exceptions to requirement of legislative approval for capital development projects.

(1)
(a) Except as provided in this section, a capital development project may not be constructed on state property without legislative approval.
(b) The division may authorize a capital development project on state property without legislative approval only as provided in this section.

(2)
(a) Legislative approval is not required for a capital development project that consists of the design or construction of a new facility if:
(i) the division determines that the requesting agency has provided adequate assurance that state funds will not be used for the design or construction of the facility;
(ii) the agency provides to the division a written document, signed by the head of the agency:
(A) stating that funding or a revenue stream is in place, or will be in place before the project is completed, to ensure that increased state funding will not be required to cover the cost of operations and maintenance for the resulting facility or for immediate or future capital improvements; and
(B) detailing the source of the funding that will be used for the cost of operations and maintenance and for immediate and future capital improvements to the resulting facility; and
(iii) the division determines that the use of the state property:
(A) is appropriate and consistent with the master plan for the property; and
(B) will not create an adverse impact on the state.
(b) For a facility constructed without legislative approval under Subsection (2)(a), an agency may not request:
(i) increased state funds for operations and maintenance; or
(ii) increased state capital improvement funding.

(3) Legislative approval is not required for:
(a) a facility:
(i) to be built with funds other than state funds and owned by an entity other than a state entity; and
(ii) that is within a research park area at the University of Utah or Utah State University;
(b) a facility to be built at This is the Place State Park by the This is the Place Foundation with funds of the This is the Place Foundation or with donated services or materials and that may include grant money from the state;
(c) a project that:
(i) is funded by the Uintah Basin Revitalization Fund or the Navajo Revitalization Fund; and
(ii) does not provide a new facility for an agency or institution of higher education; or
(d) a project on school and institutional trust lands that:
(i) is funded by the trust lands administration from the Land Grant Management Fund; and
(ii) does not fund construction of a new facility for an agency or institution of higher education.

(4)
(a) Legislative approval is not required for a capital development project to be built for the Department of Transportation resulting from:
(i) an exchange of real property under Section 72-5-111; or
(ii) a sale or exchange of real property from a maintenance facility if the proceeds from the sale of the real property are used for, or the real property is exchanged for:
(A) real property for another maintenance facility; or

(B) another maintenance facility, including improvements for a maintenance facility.

(b) If the Department of Transportation approves a sale or exchange under Subsection (4)(a) for a capital development project subject to the board's approval, the Department of Transportation shall notify the president of the Senate, the speaker of the House of Representatives, and the cochairs of the Transportation and Infrastructure Appropriations Subcommittee of the Legislature's Joint Appropriations Committee about any new facilities to be built or improved.

Amended by Chapter 271, 2025 General Session

63A-5b-405 Capital improvement projects.

(1)

(a) On or before January 15 of each year, the division shall, on behalf of all agencies, submit a list of anticipated capital improvement project requirements to the Legislature.

(b) The division shall ensure that the capital improvements project list identifies:

(i) each single capital improvement project that costs more than $1,000,000;

(ii) each multiple capital improvement project within a single building or facility that collectively costs more than $1,000,000;

(iii) each single capital improvement project that will be constructed over multiple years with a yearly cost of $1,000,000 or more and an aggregate cost of more than $3,500,000;

(iv) each multiple capital improvement project within a single building or facility with a yearly cost of $1,000,000 or more and an aggregate cost of more than $3,500,000;

(v) each single capital improvement project previously reported to the Legislature as a capital improvement project under $1,000,000 that, because of an increase in costs or scope of work, will now cost more than $1,000,000;

(vi) each multiple capital improvement project within a single building or facility previously reported to the Legislature as a capital improvement project under $1,000,000 that, because of an increase in costs or scope of work, will now cost more than $1,000,000; and

(vii) each capital improvement project described in Subsection 63A-5b-401(3)(c).

(2)

(a) Unless otherwise directed by the Legislature, the division shall prioritize capital improvement projects on the capital improvement project list up to the level of appropriation made by the Legislature.

(b) In prioritizing capital improvement projects, the division shall consider the results of facility evaluations completed by an architect or engineer as stipulated by the division's facilities maintenance standards.

(c) In prioritizing capital improvement projects, the division shall allocate at least 90% of the funds that the Legislature appropriates for capital improvement projects to:

(i) capital improvement projects that address:

(A) a structural issue;

(B) fire safety;

(C) a code violation; or

(D) any issue that impacts health and safety;

(ii) capital improvement projects that upgrade:

(A) an HVAC system;

(B) an electrical system;

(C) essential equipment;

(D) an essential building component; or

(E) infrastructure, including a utility tunnel, water line, gas line, sewer line, roof, parking lot, or road; or

(iii) capital improvement projects that demolish and replace an existing building that is in extensive disrepair and cannot be fixed by repair or maintenance.

(d) In prioritizing capital improvement projects, the division may not allocate more than 10% of the funds that the Legislature appropriates for capital improvement projects to:

(i) remodeling and aesthetic upgrades to meet state programmatic needs; or

(ii) construct an addition to an existing building or facility.

(3) The division may require an entity that benefits from a capital improvement project to repay the capital improvement funds from savings that result from the capital improvement project.

(4) The division may provide capital improvement project funding to a single project or to multiple projects within a single building or facility, even if the total cost of the project or multiple projects is $3,500,000 or more, if:

(a) the capital improvement project is a project described in Subsection 63A-5b-401(3)(c); and

(b) the Legislature has not refused to fund the project with capital improvement project funds.

(5)

(a) In developing the capital improvement project list and priorities, the division shall require each agency that requests an appropriation for a capital improvement project to:

(i) submit a capital improvement project request; and

(ii) complete and submit a project scoping document.

(b) A project scoping document under Subsection (5)(a)(ii) shall address:

(i) the need for the capital improvement project; and

(ii) the appropriateness of the scope of the capital improvement project.

(c) The division shall verify the completion and accuracy of a project scoping document that an agency submits under Subsection (5)(a)(ii).

(6) Except for this Subsection (6), this section does not apply to a capital improvement project described in Subsection 63A-5b-401(2)(a)(ii).

Renumbered and Amended by Chapter 152, 2020 General Session

63A-5b-406 Limitations on new projects.

(1) The Legislature may authorize:

(a) the total square footage to be occupied by each agency; and

(b) the total square footage and total cost of lease space for each agency.

(2) If construction of a new building or facility will require an immediate or future increase in state funding for operations and maintenance or for capital improvements, the Legislature may not authorize the new building or facility until the Legislature appropriates funds for:

(a) the portion of operations and maintenance, if any, that will require an immediate or future increase in state funding; and

(b) the portion of capital improvements, if any, that will require an immediate or future increase in state funding.

(3)

(a) Except as provided in Subsections (3)(b) and (c), the Legislature may not fund the design or construction of any new capital development project, except to complete the funding of a project for which partial funding has been previously provided, until the Legislature has appropriated 1.1% of the replacement cost of existing state facilities and infrastructure to capital improvements.

(b) If the Legislature determines that there exists an Income Tax Fund budget deficit, as defined in Section 63J-1-312, or a General Fund budget deficit, as defined in Section 63J-1-312, the Legislature may, in eliminating the deficit, reduce the amount appropriated to capital improvements to 0.9% of the replacement cost of state buildings and infrastructure.

(c) Subsection (3)(a) does not apply to a dedicated project as defined in Section 63A-5b-403.

(4)

(a)

(i) Except as provided in Subsection (4)(a)(ii), the Legislature may not fund the design and construction of a new facility in phases over more than one year unless the Legislature approves the funding for both the design and construction by a vote of two-thirds of all the members elected to each house.

(ii) Subsection (4)(a)(i) does not apply to a dedicated project as defined in Section 63A-5b-403.

(b) An agency shall receive approval from the director before the agency begins programming for a new facility:

(i) that requires legislative approval; or

(ii) to be built under Subsection 63A-5b-404(2).

(c) The division or an agency may fund the programming of a new facility before the Legislature makes an appropriation for the new facility under Subsection (4)(a).

(5)

(a) The director, with the approval of the Office of the Legislative Fiscal Analyst, shall develop standard forms to present capital development project and capital improvement project cost summary data.

(b) The director shall:

(i) within 30 days after the completion of each capital development project, submit cost summary data for the project on the standard form to the Office of the Legislative Fiscal Analyst; and

(ii) upon request, submit cost summary data for a capital improvement project to the Office of the Legislative Fiscal Analyst on the standard form.

(6)

(a) After the Legislature approves capital development project priorities under Section 63A-5b-402 and capital improvement project priorities under Section 63A-5b-405, the director may reallocate capital development project or capital improvement project funds to address a critical need for a capital improvement project:

(i) if an emergency arises that creates an unforeseen and critical need for the capital improvement project; and

(ii) notwithstanding the requirements of Title 63J, Chapter 1, Budgetary Procedures Act.

(b) The director shall report any changes the director makes in capital development project or capital improvement project allocations approved by the Legislature to:

(i) the Office of the Legislative Fiscal Analyst within 30 days after the reallocation; and

(ii) the Legislature at the Legislature's next annual general session.

Amended by Chapter 456, 2022 General Session

63A-5b-407 State Agency Capital Development Fund -- Creation -- Process.

(1)

(a) There is created a capital projects fund known as the State Agency Capital Development Fund.

(b) The State Agency Capital Development Fund and this section do not apply to an institution of higher education.

(2) The State Agency Capital Development Fund is funded from the following sources:

(a) one-time appropriations made to the State Agency Capital Development Fund by the Legislature;

(b) ongoing appropriations made by the Legislature; or

(c) revenue received from the sale, lease, or disposition of any state agency building or property associated with the implementation of the Statewide Master Plan for State Agencies as described in Subsection (7).

(3) Subject to Subsection (4), and subject to appropriation by the Legislature, the division may use the money deposited into the State Agency Capital Development Fund for capital development projects, capital improvement projects, and to design, renovate, or construct facilities for state agencies.

(4)

(a) Before the division spends or commits money from the State Agency Capital Development Fund, in accordance with Sections 63A-5b-402, 63A-5b-405, and 63A-5b-501, the division shall present to the Transportation and Infrastructure Appropriations Subcommittee:

(i) a description of each project for which the division will spend the money; and

(ii) the amount of money needed for each project.

(b) Following a presentation described in Subsection (4)(a), the Transportation and Infrastructure Appropriations Subcommittee shall recommend to the Legislature appropriations of money from the State Agency Capital Development Fund to the division for approved projects in the division's plan.

(c) In accordance with this section, the division is required to receive legislative approval through an appropriations act in order to expend money in the State Agency Capital Development Fund for a capital development project.

(5) In the 2024 General Session of the Legislature, and each year thereafter, and in accordance with Sections 63A-5b-402, 63A-5b-405, and 63A-5b-501, the division shall present a five-year building plan to the Transportation and Infrastructure Appropriations Subcommittee that describes the division's anticipated plan for designing, renovating, or building state agency facilities.

(6) The division may not submit a request to the Transportation and Infrastructure Appropriations Subcommittee for funding from the State Agency Capital Development Fund unless:

(a) the project complies with the Statewide Master Plan for State Agencies; and

(b) the division first obtains approval from the Governor's Office of Planning and Budget.

(7) If a building is vacated by an agency and the agency moves to another building, proceeds from the sale or lease of the vacated building:

(a) may not be used by the agency or otherwise absorbed into the agency's budget; and

(b) shall be deposited into the State Agency Capital Development Fund described in this section.

Amended by Chapter 271, 2025 General Session

Part 5
Planning and Programming

63A-5b-501 Five-year building plan.

(1) The director shall:
(a) in cooperation with agencies, prepare a master plan of structures built or contemplated;
(b) submit to the governor and the Legislature a comprehensive five-year building plan for the state containing the information required by Subsection (2);
(c) amend and keep current the five-year building plan that complies with the requirements described in Subsection (2), for submission to the governor and subsequent legislatures;
(d) as part of the long-range plan, recommend to the governor and Legislature any changes in the law that are necessary to ensure an effective, well-coordinated building program for all agencies; and
(e) for each fiscal year covered by the five-year building plan, submit to the Legislature a request for appropriation for that fiscal year.
(2)
(a) The director shall ensure that the five-year building plan required by Subsection (1)(b) includes:
(i) a list that prioritizes construction of new buildings for all structures built or contemplated based upon each agency's present and future needs;
(ii) information and space use data for all state-owned and leased facilities;
(iii) substantiating data to support the adequacy of any projected plans;
(iv) a summary of all statewide contingency reserve and project reserve balances as of the end of the most recent fiscal year;
(v) a list of buildings that have completed a comprehensive facility evaluation by an architect or engineer or are scheduled to have an evaluation;
(vi) for those buildings that have completed the evaluation, the estimated costs of needed improvements; and
(vii) for projects recommended in the first two years of the five-year building plan:
(A) detailed estimates of the cost of each project;
(B) the estimated cost to operate and maintain the building or facility on an annual basis;
(C) the cost of capital improvements to the building or facility, estimated at 1.1% of the replacement cost of the building or facility, on an annual basis;
(D) the estimated number of new agency full-time employees expected to be housed in the building or facility;
(E) the estimated cost of new or expanded programs and personnel expected to be housed in the building or facility;
(F) the estimated lifespan of the building with associated costs for major component replacement over the life of the building; and
(G) the estimated cost of any required support facilities.
(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director may make rules prescribing the format for submitting the information required by this Subsection (2).
(3) To provide adequate information to enable the director to make a recommendation described in Subsection (1), an agency requesting new full-time employees for the next fiscal year shall report those anticipated requests to the director at least 90 days before the annual general session in which the request is made.

Amended by Chapter 473, 2026 General Session

63A-5b-502 Programming.
(1) A program document may:

(a) incorporate written and graphic materials; and
(b) include:
(i) an executive summary;
(ii) documentation of the methodology used to develop the programming;
(iii) value and goal statements;
(iv) relevant facts upon which the programming was based;
(v) conclusions derived from data analysis;
(vi) relationship diagrams;
(vii) flow diagrams;
(viii) matrices identifying space allocations and relationships;
(ix) space listings by function and size; and
(x) space program sheets, including standard requirements and special HVAC, plumbing, power, lighting, acoustical, furnishings, equipment, or security needs.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director may make rules:
(a) establishing the types of projects for which programming and a program document are required;
(b) establishing the scope of programming required for defined categories of projects;
(c) establishing the circumstances under which an agency must obtain authorization from the director to engage in programming;
(d) governing the funding of programming;
(e) relating to the administration of programming; and
(f) regarding any restrictions that may be imposed on a person involved in programming from participating in the preparation of construction documents for a project that is the subject of the programming.

Amended by Chapter 473, 2026 General Session

63A-5b-503 Planning Fund expenditures authorized -- Ceiling on expenditures -- Recovery.

(1) The Planning Fund shall be used to make payments for engineering, architectural, and other planning expenses necessary to make a meaningful cost estimate of any facility or improvement with a demonstrable or immediate need.

(2) The director may make expenditures from the Planning Fund in order to provide planning information to the governor and the Legislature, up to a maximum of $350,000 in outstanding Planning Fund commitments.

(3)
(a) The director shall authorize all payments made from the Planning Fund.
(b) Payments from the Planning Fund shall be a charge on the project for which they were drawn.
(c) If the Legislature appropriates money for a building project for which planning costs have previously been paid from the Planning Fund, the director shall credit that amount to the Planning Fund.

(4)
(a) The director may expend money from the Planning Fund for architectural and engineering services incident to the planning and preparation of applications for funds on construction financed by other than state sources, including federal grants.
(b) Upon approval of financing referred to in Subsection (4)(a), the director shall reimburse to the Planning Fund the money spent for architectural and engineering services.

Amended by Chapter 421, 2022 General Session

Part 6
Design and Construction

63A-5b-601 Definitions.

As used in this part:

(1)

(a) "Facility" means any building, structure, or other improvement that is constructed:

(i) on property that the state or any of the state's departments, commissions, institutions, or agencies owns; or

(ii) by the state or any of the state's departments, commissions, institutions, or agencies on property that the state does not own.

(b) "Facility" does not mean an unoccupied structure that is a component of the state highway system.

(2) "Local government" means the county, municipality, or local school district that would have jurisdiction to act as the compliance agency if the division did not have jurisdiction to act as the compliance agency.

Amended by Chapter 421, 2022 General Session

63A-5b-602 Design criteria, standards, and procedures.

(1) The director shall establish design criteria, standards, and procedures for the planning, design, and construction of a new facility and for improvements to an existing facility, including life-cycle costing, cost-effectiveness studies, and other methods and procedures that address:

(a) the need for the facility;

(b) the effectiveness of the facility's design;

(c) the efficiency of energy use; and

(d) the usefulness of the facility over the facility's lifetime.

(2) Before proceeding with construction, the director and the officials charged with the administration of the affairs of the particular agency shall approve the location, design, plans, and specifications.

(3) The director shall prepare or have prepared by one or more private persons the designs, plans, and specifications for the projects administered by the division.

(4) Before construction may begin, the director shall review the design of projects exempted from the division's administration under Section 63A-5b-604 to determine if the design:

(a) complies with any restrictions placed on the project by the director; and

(b) is appropriate for the purpose and setting of the project.

(5) Notwithstanding the requirements of Title 63J, Chapter 1, Budgetary Procedures Act, the director may:

(a) accelerate the design of a project funded by an appropriation act passed by the Legislature in the Legislature's annual general session;

(b) use an unencumbered existing account balance to fund that design work; and

(c) reimburse the account balance from the amount funded for the project when the appropriation act funding the project becomes effective.

(6) If the director establishes design criteria or standards that exceed the minimum requirements of the State Construction Code adopted under Title 15A, State Construction and Fire Codes Act, the director shall ensure that the additional criteria or standards are:
(a) appropriate for the intended use and setting of the facility; and
(b) cost-effective over the expected useful life of the facility.

Amended by Chapter 473, 2026 General Session

63A-5b-603 Contracting powers of director -- Bids -- Retainage.
(1) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the director may enter into a contract for any work or professional service that the division may do or have done.
(2)
(a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director may make rules establishing circumstances under which bids may be modified when all bids for a construction project exceed available funds as determined by the director.
(b) In making the rules described in Subsection (2)(a), the director shall provide for the fair and equitable treatment of bidders.
(c) The judgment of the director as to the responsibility and qualifications of a bidder is conclusive, except in case of fraud or bad faith.
(3) The division shall make all payments to the contractor for completed work in accordance with Section 15-6-2 and pay the interest specified in Section 15-6-3 on any payments that are late.
(4) If the division retains or withholds a payment on a contract with a private contractor to do work for the division, the division shall retain or withhold and release the payment as provided in Section 13-8-5.

Amended by Chapter 421, 2022 General Session

63A-5b-604 Construction, alteration, and repair of state facilities -- Powers of director -- Exceptions -- Expenditure of appropriations -- Compliance agency role.
(1)
(a) Except as provided in this section and Section 63A-5b-1101, the director shall exercise direct supervision over the design and construction of all new facilities, and all alterations, repairs, and improvements to existing facilities, if the total project construction cost, regardless of the funding source, is greater than $1,500,000.
(b) Subject to Subsections (1)(c) and (d), a state entity may exercise direct supervision over the design and construction of all new facilities, and over all alterations, repairs, and improvements to existing facilities, if:
(i) except as provided in Subsection (1)(e), the total project construction cost, regardless of the funding sources, is $1,500,000 or less; and
(ii) the state entity assures compliance with the division's forms and contracts and the division's design, construction, alteration, repair, improvement, and code inspection standards.
(c) Before exercising direct supervision under Subsection (1)(b), a state entity shall enter into a memorandum of understanding with the division, in a form developed by the division, that addresses:
(i) the state entity's compliance with Subsection (1)(b)(ii); and
(ii) other matters the division considers necessary and appropriate to facilitate the state entity's supervision of the project, including provisions governing the use of capital improvement

funds to ensure expenditures are consistent with legislative appropriations and the five-year building plan.

(d) The director may assume direct supervision over the design and construction of a project described in Subsection (1)(b) if the division determines, through inspection or review conducted in accordance with the division's design, construction, or code inspection standards, that the work is deficient, substandard, or noncompliant.

(e) For purposes of Subsection (1)(b)(i), a state entity that is an institution of higher education described in Subsection 53H-1-102(1)(a) or (b) may exercise direct supervision if the total project construction cost is:

(i) $30,000,000 or less for the University of Utah;

(ii) $10,000,000 or less for Utah State University;

(iii) $2,500,000 or less for a university described in Subsections 53H-1-102(1)(a)(iii), (iv), (vi), or (vii); or

(iv) $1,000,000 or less for:

(A) Snow College;

(B) Salt Lake Community College; or

(C) a technical college described in Subsection 53H-1-102(1)(b).

(f) A state entity that exercises direct supervision under Subsection (1)(b) may not access, for the supervised project, the division's statewide contingency reserve or project reserve authorized in Section 63A-5b-609.

(2) The director may enter into a capital improvement partnering agreement with an institution of higher education that permits the institution of higher education to exercise direct supervision for a capital improvement project with oversight from the division.

(3)

(a) Subject to Subsection (3)(b), the director may delegate control over design, construction, and other aspects of any project to entities of state government on a project-by-project basis.

(b) With respect to a delegation of control under Subsection (3)(a), the director may:

(i) impose terms and conditions on the delegation that the director considers necessary or advisable to protect the interests of the state; and

(ii) revoke the delegation and assume control of the design, construction, or other aspect of a delegated project if the director considers the revocation and assumption of control to be necessary to:

(A) address a circumstance described in Subsection (1)(d); or

(B) otherwise protect the interests of the state.

(4)

(a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director may delegate control over design, construction, and all other aspects of any project to entities of state government on a categorical basis for projects within a particular dollar range and a particular project type.

(b) Rules adopted by the director under Subsection (4)(a) may:

(i) impose the terms and conditions on categorical delegation that the director considers necessary or advisable to protect the interests of the state;

(ii) provide for the revocation of the delegation on a categorical basis and for the division to assume control of the design, construction, or other aspect of a category of delegated projects or a specific delegated project if the director considers revocation of the delegation and assumption of control to be necessary to protect the interests of the state;

(iii) require that a categorical delegation be renewed by the director on an annual basis; and

(iv) require the division's oversight of delegated projects.

(5)
(a) A state entity to which project control is delegated under this section shall:
(i) assume fiduciary control over project finances;
(ii) assume all responsibility for project budgets and expenditures; and
(iii) receive all funds appropriated for the project, including any contingency funds contained in the appropriated project budget.
(b) Notwithstanding a delegation of project control under this section, a state entity to which control is delegated is required to comply with the division's codes and guidelines for design and construction.
(c) A state entity to which project control is delegated under this section may not access, for the delegated project, the division's statewide contingency reserve and project reserve authorized in Section 63A-5b-609.
(d) For a facility that will be owned, operated, maintained, and repaired by an entity that is not an agency and that is located on property that the state owns or leases as a tenant, the director may authorize the facility's owner to administer the design and construction of the project relating to that facility.
(6)
(a) A project for the construction of a new facility and a project for alterations, repairs, and improvements to an existing facility are not subject to Subsection (1) if the project:
(i) occurs on property under the jurisdiction of the State Capitol Preservation Board;
(ii) is within a designated research park at the University of Utah or Utah State University;
(iii) occurs within the boundaries of This is the Place State Park and is administered by This is the Place Foundation; or
(iv) is for the creation and installation of art under Title 9, Chapter 6, Part 4, Utah Percent-for-Art Act.
(b) Notwithstanding Subsection (6)(a)(iii), the This is the Place Foundation may request the director to administer the design and construction of a project within the boundaries of This is the Place State Park.
(7)
(a) The role of compliance agency under Title 15A, State Construction and Fire Codes Act, shall be filled by:
(i) the director, for a project administered by the division;
(ii) the entity designated by the State Capitol Preservation Board, for a project under Subsection (6)(a)(i);
(iii) the local government, for a project that is:
(A) not subject to the division's administration under Subsection (6)(a)(ii); or
(B) administered by This is the Place Foundation under Subsection (6)(a)(iii);
(iv) the compliance agency designated by the director, for a project under Subsection (2), (3), (4), or (5)(d); and
(v) for the installation of art under Subsection (6)(a)(iv), the entity that is acting as the compliance officer for the balance of the project for which the art is being installed.
(b) A local government acting as the compliance agency under Subsection (7)(a)(iii) may:
(i) only review plans and inspect construction to enforce the state construction code or an approved code under Title 15A, State Construction and Fire Codes Act; and
(ii) charge a building permit fee of no more than the amount the local government could have charged if the land upon which the improvements are located were not owned by the state.
(8)

(a) The zoning authority of a local government under Title 10, Chapter 20, Municipal Land Use, Development, and Management Act, or Title 17, Chapter 79, County Land Use, Development, and Management Act, does not apply to the use of property that the state owns or any improvements constructed on property that the state owns, including improvements constructed by an entity other than a state entity.
(b) A state entity controlling the use of property that the state owns shall consider any input received from a local government in determining how the property is to be used.

Amended by Chapter 473, 2026 General Session

63A-5b-605 Requirement for bidders to list subcontractors -- Changing subcontractors -- Bidders as subcontractors.

(1) As used in this section:
(a) "First-tier subcontractor" means a subcontractor who contracts directly with the prime contractor.
(b)
(i) "Subcontractor" means a person under contract with a contractor or another subcontractor to provide services or labor for the construction, installation, or repair of an improvement to real property.
(ii) "Subcontractor" includes a trade contractor or specialty contractor.
(iii) "Subcontractor" does not include a supplier that provides only materials, equipment, or supplies to a contractor or subcontractor.
(2) The director shall apply the provisions of this section to achieve fair and competitive bidding and to discourage bid-shopping by contractors.
(3)
(a)
(i)
(A) On a public construction project, the director shall, except as provided in Subsection (3)(a)(ii), require the apparent lowest three bidders to submit a list of their first-tier subcontractors indicating each first-tier each subcontractor's name, bid amount, and other information required by rule.
(B) A bidder that is not one of the apparent lowest three bidders may also submit a list of the bidder's first-tier subcontractors containing the information required by this Subsection (3).
(ii) A bidder is not required to list a first-tier subcontractor if:
(A) the bidder's total bid is less than $500,000 and the first-tier subcontractor's bid is less than $20,000; or
(B) the bidder's total bid is $500,000 or more and the first-tier subcontractor's bid is less than $35,000.
(b) A bidder shall submit the list required under this section within 24 hours after the bid opening time, not including Saturday, Sunday, and any state holiday.
(c) A list submitted under this section does not limit the director's right to authorize a change in the listing of any subcontractor.
(4) The director may not consider a bid submitted by a bidder that fails to submit a list meeting the requirements of this section.
(5) A bidder shall verify that all subcontractors listed as part of the bidder's bid are licensed as required by state law.
(6)

(a) After 24 hours after the bid opening, a bidder may change the bidder's subcontractors only after:
(i) receiving permission from the director; and
(ii) establishing:
(A) that the change is in the best interest of the state; and
(B) the reasons for the change that meet the standards established by the director.
(b) If the director approves a change in subcontractors that results in a net lower contract price for subcontracted work, the director may require the bidder to reduce the total of the prime contract to reflect the change.
(7)
(a) A bidder may list the bidder as a subcontractor if:
(i) the bidder is currently licensed to perform the portion of the work for which the bidder lists the bidder as a subcontractor; and
(ii)
(A) the bidder intends to perform the work of a subcontractor; or
(B) the bidder intends to obtain a subcontractor at a later date to perform the work because the bidder was unable to obtain a bid from a qualified subcontractor or from a qualified subcontractor at a cost that the bidder considers to be reasonable.
(b)
(i) If the bidder intends to perform the work of a subcontractor, the director may, by written request, require that the bidder provide the director with information indicating the bidder's:
(A) previous experience in the type of work to be performed; and
(B) qualifications for performing the work.
(ii) A bidder shall respond in writing within five business days after receiving the director's written request under Subsection (7)(b)(i).
(iii) If the information a bidder submits under Subsection (7)(b)(ii) causes the director to reasonably believe that the bidder's performance of the portion of the work is likely to result in a substandard finished product, the director shall:
(A) require the bidder to use a subcontractor for the portion of the work in question and obtain the subcontractor bid under the supervision of the director; or
(B) reject the bidder's bid.
(8)
(a) If a bidder intends to obtain a subcontractor at a later date to perform work described in the bidder's bid, the bidder shall provide documentation with the subcontractor list required under this section:
(i) describing the bidder's efforts to obtain a bid of a qualified subcontractor at a reasonable cost; and
(ii) explaining why the bidder was unable to obtain a qualified subcontractor bid.
(b) If a bidder who intends to obtain a subcontractor at a later date to perform the work described in a bid is awarded a contract, the director:
(i) shall supervise the bidder's efforts to obtain a qualified subcontractor bid; and
(ii) may not adjust the amount of the contract awarded in order to reflect the actual amount of the subcontractor's bid.
(9) The division may not disclose any subcontractor bid amounts obtained under this section until the division has awarded the project to a contractor.
(10) In addition to all other reasons allowed by statute or rule, the director may reject all bids if all of the bidders whose bids are within the budget of the project fail to submit a subcontractor list as required under this section.

Renumbered and Amended by Chapter 152, 2020 General Session

63A-5b-606 Dispute resolution process -- Penalties for fraud or bad faith claim.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director shall make rules for the division establishing a process for resolving disputes involved with contracts under the division's procurement authority.

(2) The director shall consider, and the rules may include:

(a) requirements regarding preliminary resolution efforts between the parties directly involved with the dispute;

(b) requirements for the filing of a claim, including notification, time frames, and documentation;

(c) identification of the types of costs eligible for allocation and a method for allocating costs among the parties to the dispute;

(d) a required time period, not to exceed 60 days, for the resolution of the claim;

(e) a provision for an independent hearing officer, panel, or arbitrator to extend the time period for resolution of the claim by not to exceed 60 additional days for good cause;

(f) a provision for the extension of required time periods if the claimant agrees;

(g) requirements that decisions be issued in writing;

(h) provisions for an administrative appeal of a decision;

(i) provisions for the timely payment of claims after resolution of the dispute, including any appeals;

(j) a requirement that the final determination resulting from the dispute resolution process provided for in the rules is a final agency action subject to judicial review as provided in Sections 63G-4-401 and 63G-4-402;

(k) a requirement that a claim or dispute that does not include a monetary claim against the division or an agent of the division is not limited to the dispute resolution process provided for in this section;

(l) requirements for claims and disputes to be eligible for the dispute resolution process under this section;

(m) the use of an independent hearing officer or panel or the use of arbitration or mediation; and

(n) the circumstances under which a subcontractor may file a claim directly with the division.

(3) A person pursuing a claim under the process established as provided in this section:

(a) is bound by the decision reached under this process, subject to any modification of the decision on appeal; and

(b) may not pursue a claim, protest, or dispute under the dispute resolution process established in Title 63G, Chapter 6a, Utah Procurement Code.

(4) A fraudulent misrepresentation made by or bad faith claim pursued by a contractor, subcontractor, or supplier, may be grounds for:

(a) the director to suspend or debar the contractor, subcontractor, or supplier; or

(b) the contractor, subcontractor, or supplier to be disciplined by the Division of Professional and Occupational Licensing.

Amended by Chapter 169, 2022 General Session

63A-5b-607 Health insurance requirements -- Penalties.

(1) As used in this section:

(a) "Aggregate amount" means the dollar sum of all contracts, change orders, and modifications for a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.
(c) "Eligible employee" means an employee, as defined in Section 34A-2-104, who:
(i) works at least 30 hours per calendar week; and
(ii) meets the employer eligibility waiting period for qualified health insurance coverage provided by the employer.
(d) "Health benefit plan" means:
(i) the same as that term is defined in Section 31A-1-301; or
(ii) an employee welfare benefit plan:
(A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;
(B) for an employer with 100 or more employees; and
(C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.
(e) "Qualified health insurance coverage" means the same as that term is defined in Section 26B-3-909.
(f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.
(g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.
(2) Except as provided in Subsection (3), the requirements of this section apply to:
(a) a contractor of a design or construction contract with the division if the prime contract is in an aggregate amount of $2,000,000 or more; and
(b) a subcontractor of a contractor of a design or construction contract with the division if the subcontract is in an aggregate amount of $1,000,000 or more.
(3) The requirements of this section do not apply to a contractor or subcontractor if:
(a) the application of this section jeopardizes the division's receipt of federal funds;
(b) the contract is a sole source contract, as defined in Section 63G-6a-103; or
(c) the contract is the result of an emergency procurement.
(4) A person who intentionally uses a change order, contract modification, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.
(5)
(a) A contractor that is subject to the requirements of this section shall:
(i) make and maintain an offer of qualified health coverage for the contractor's eligible employees and the eligible employees' dependents; and
(ii) submit to the director a written statement demonstrating that the contractor is in compliance with Subsection (5)(a)(i).
(b) A statement under Subsection (5)(a)(ii):
(i) shall be from:
(A) an actuary selected by the contractor or the contractor's insurer;
(B) an underwriter who is responsible for developing the employer group's premium rates; or
(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and
(ii) may not be created more than one year before the day on which the contractor submits the statement to the director.
(c)
(i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as described in Subsection (5)(b)(i)(C), sufficient information to determine whether the contractor's contribution to the

health benefit plan and the actuarial value of the health benefit plan meet the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:

(A) the actuary or underwriter selected by an administrator, as described in Subsection (5)(b)(i)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and

(B) the division.

(6)

(a) A contractor that is subject to the requirements of this section shall:

(i) ensure that each contract the contractor enters with a subcontractor that is subject to the requirements of this section requires the subcontractor to obtain and maintain an offer of qualified health coverage for the subcontractor's eligible employees and the eligible employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor referred to in Subsection (6)(a)(i) a written statement demonstrating that the subcontractor offers qualified health coverage to eligible employees and eligible employees' dependents.

(b) A statement under Subsection (6)(a)(ii):

(i) shall be from:

(A) an actuary selected by the subcontractor or the subcontractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(ii) may not be created more than one year before the day on which the contractor obtains the statement from the subcontractor.

(7)

(a)

(i) A contractor that fails to maintain an offer of qualified health coverage during the duration of the contract as required in this section is subject to penalties in accordance with administrative rules made by the division under this section, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(ii) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage as required in this section.

(b)

(i) A subcontractor that fails to obtain and maintain an offer of qualified health coverage during the duration of the subcontract as required in this section is subject to penalties in accordance with administrative rules made by the division under this section, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(ii) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage as required in this section.

(8) The division shall make rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) a public transit district in accordance with Section 17B-2a-818.5;

(iv) the State Capitol Preservation Board in accordance with Section 63O-2-403;

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's General Oversight Committee created under Section 36-35-102; and

(c) that establish:

(i) the requirements and procedures for a contractor and a subcontractor to demonstrate compliance with this section, including:

(A) a provision that a contractor or subcontractor's compliance with this section is subject to an audit by the division or the Office of the Legislative Auditor General;

(B) a provision that a contractor that is subject to the requirements of this section obtain a written statement as provided in Subsection (5); and

(C) a provision that a subcontractor that is subject to the requirements of this section obtain a written statement as provided in Subsection (6);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into a future contract with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into a future contract with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for eligible employees and dependents of eligible employees of the contractor or subcontractor who were not offered qualified health coverage during the duration of the contract; and

(iii) a website for the department to post the commercially equivalent benchmark for the qualified health coverage that is provided by the Department of Health and Human Services in accordance with Subsection 26B-3-909(2).

(9) During the duration of a contract, the division may perform an audit to verify a contractor or subcontractor's compliance with this section.

(10)

(a) Upon the division's request, a contractor or subcontractor shall provide the division:

(i) a signed actuarial certification that the coverage the contractor or subcontractor offers is qualified health coverage; or

(ii) all relevant documents and information necessary for the division to determine compliance with this section.

(b) If a contractor or subcontractor provides the documents and information described in Subsection (10)(a)(i), the Insurance Department shall assist the division in determining if the coverage the contractor or subcontractor offers is qualified health coverage.

(11)

(a)

(i) In addition to the penalties imposed under Subsection (7), a contractor or subcontractor that intentionally violates the provisions of this section is liable to an eligible employee for health care costs that would have been covered by qualified health coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (11)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5) or (6); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An eligible employee has a private right of action against the employee's employer only as provided in this Subsection (11).

(12) The director shall cause money collected from the imposition and collection of a penalty under this section to be deposited into the Medicaid Growth Reduction and Budget Stabilization Account created by Section 63J-1-315.
(13) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:
(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:
(i) Section 63G-6a-1602; or
(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and
(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.
(14) An employer's waiting period for an employee to become eligible for qualified health coverage may not extend beyond the first day of the calendar month following 60 days after the day on which the employee is hired.
(15) An administrator, including an administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):
(a) subject to Subsection (11)(a), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;
(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and
(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

Amended by Chapter 484, 2026 General Session

63A-5b-608 Obligations beyond authorized funding prohibited -- Exceptions.
(1) Unless otherwise specifically instructed by the terms of the appropriation for a particular project, the director shall assure that no obligations beyond the authorized funding are incurred in the construction of any project authorized by the Legislature.
(2) The director may expend appropriations for statewide projects from funds provided by the Legislature for the purposes and within the guidelines established by the Legislature.
(3) The director may consent to the drafting of a plan or the awarding of a contract that will exceed in cost the funding currently available for the project only if the Legislature has specifically provided for extending construction of a building or the completion of a project into future fiscal periods.

Renumbered and Amended by Chapter 152, 2020 General Session

63A-5b-609 Expenditure of appropriated funds supervised by director -- Contingencies -- Disposition of project reserve funds -- Set aside for Utah Percent-for-Art Program -- Distribution of cost savings.
(1) The director shall:
(a)
(i) supervise the expenditure of funds in providing plans, engineering specifications, sites, and construction of the buildings for which legislative appropriations are made; and

(ii) specifically allocate money appropriated if more than one project is included in any single appropriation without legislative directive;

(b)

(i) expend the amount necessary from appropriations for planning, engineering, and architectural work; and

(ii)

(A) allocate amounts from appropriations necessary to cover expenditures previously made from the planning fund under Section 63A-5b-503 in the preparation of plans, engineering, and specifications; and

(B) return the amounts described in Subsection (1)(b)(ii)(A) to the planning fund; and

(c) hold in a statewide contingency reserve the amount budgeted for contingencies:

(i) in appropriations for the construction or remodeling of facilities; and

(ii) that are over and above all amounts obligated by contract for planning, engineering, architectural work, sites, and construction contracts.

(2)

(a) The director shall base the amount budgeted for contingencies on a sliding scale percentage of the construction cost ranging from:

(i) 4.5% to 6.5% for new construction; and

(ii) 6% to 9.5% for remodeling projects.

(b) The director shall hold the statewide contingency funds to cover:

(i) costs of change orders; and

(ii) unforeseen, necessary costs beyond those specifically budgeted for the project.

(c) The Legislature shall annually review the percentage and the amount held in the statewide contingency reserve.

(d) If any amount from the statewide contingency reserve is in excess of the amount required to meet future contingency needs, the Legislature:

(i) may reappropriate the excess amount to other building needs, including the cost of administering building projects;

(ii) may transfer the excess amount to the General Fund or the Income Tax Fund, in proportion to the amounts originally appropriated from each fund for the projects to which the excess amount is attributable; or

(iii) if the excess amount is attributable to an appropriation for the programming or design and construction of a project described in Title 53H, Chapter 9, Part 5, General Capital Developments, or Title 53H, Chapter 9, Part 6, Technical College Leasing and Capital Development, shall, instead of taking the action described in Subsection (2)(d)(i) or (ii), transfer the excess amount, as applicable, to:

(A) the Higher Education Capital Projects Fund, created in Section 53H-9-502; or

(B) the Technical Colleges Capital Projects Fund, created in Section 53H-9-605.

(3)

(a) The director shall hold in a separate project reserve state appropriated funds accrued through bid savings and project residual.

(b) The director shall account for the funds accrued under Subsection (3)(a) in separate accounts as follows:

(i) bid savings and project residual from a capital improvement project, as defined in Section 63A-5b-401; and

(ii) bid savings and project residual from a capital development project, as defined in Section 63A-5b-401.

(c) The director may use project reserve funds in the account described in Subsection (3)(b)(i) for a capital improvement project:
(i) approved under Section 63A-5b-405; and
(ii) for which funds are not allocated.
(d) The director may:
(i) authorize the use of project reserve funds in the accounts described in Subsection (3)(b) for the award of contracts in excess of a project's construction budget if the use is required to meet the intent of the project;
(ii) transfer money from the account described in Subsection (3)(b)(i) to the account described in Subsection (3)(b)(ii) if a capital development project has exceeded its construction budget; and
(iii) use project reserve funds for any emergency capital improvement project, whether or not the emergency capital improvement project is related to a project that has exceeded its construction budget.
(e) The director shall report to the Office of the Legislative Fiscal Analyst within 30 days:
(i) an expenditure under Subsection (3)(c); or
(ii) a transfer under Subsection (3)(d).
(f) The Legislature shall annually review the amount held in the project reserve for possible reallocation by the Legislature to other building needs, including the cost of administering building projects.
(4) If any part of the appropriation for a building project, other than the part set aside for the Utah Percent-for-Art Program under Title 9, Chapter 6, Part 4, Utah Percent-for-Art Act, remains unencumbered after the award of construction and professional service contracts and establishing a reserve for fixed and moveable equipment, the balance of the appropriation is dedicated to the project reserve and does not revert to the General Fund.
(5)
(a)
(i) One percent of the amount appropriated for the construction of any new state building or facility may be appropriated and set aside for the Utah Percent-for-Art Program administered by the Division of Fine Arts under Title 9, Chapter 6, Part 4, Utah Percent-for-Art Act.
(ii) The total amount appropriated and set aside under Subsection (5)(a)(i) may not exceed:
(A) $200,000, if the new state building or facility is not located in a county of the first class; and
(B) $250,000, if the new state building or facility is located in a county of the first class.
(b) The director shall release to the Division of Fine Arts any funds included in an appropriation to the division that are designated by the Legislature for the Utah Percent-for-Art Program.
(c) Funds from appropriations for a state building or facility may not be set aside:
(i) if any part of the funds is derived from the issuance of bonds; and
(ii) to the extent the set aside of funds would jeopardize the federal income tax exemption otherwise allowed for interest paid on bonds.
(6)
(a) After funds are appropriated for a non-dedicated project of an institution of higher education, the director may approve a modification to the design of the project before final project closeout if:
(i) the modification is requested by the institution of higher education; and
(ii) the modification does not:

(A) result in a material reduction in the legislatively approved program scope, capacity, performance standards, durability, intended useful life, or intended use of the project; or
(B) eliminate or defer legislatively approved program elements, including through downsizing or removal of project components.

(b) If a modification approved under Subsection (6)(a) results in a documented reduction in the total project cost attributable to efficiencies in design refinement, engineering optimization, procurement strategy, material selection, scheduling, or construction methodology, the director shall distribute the resulting cost savings as follows:
(i) an amount, as determined by the director, not to exceed 50% of the cost savings:
(A) for a degree-granting institution described in Subsection 53H-1-102(1)(a), to the institution's allocation within the Higher Education Capital Projects Fund; or
(B) for a technical college described in Subsection 53H-1-102(1)(b), to the technical college for use on a capital improvement project; and
(ii) the remaining amount to the state, to be deposited into the General Fund or the Income Tax Fund in proportion to the amounts originally appropriated from each fund for the project.

(c) Cost savings allocated under Subsection (6)(b) are not bid savings, including bid savings that result from competitive procurement, or project residual under Subsection (3).

Amended by Chapter 473, 2026 General Session

63A-5b-610 Transfer from project reserve money.

(1) With the approval of and through an appropriation by the Legislature, the division shall transfer at least $100,000 annually from the project reserve money to the General Fund to pay for personal service expenses associated with the management of construction projects.
(2) With the approval of and as directed by the Legislature, the division shall transfer additional money from the project reserve money to pay administrative costs associated with the management of construction projects and other division responsibilities.

Renumbered and Amended by Chapter 152, 2020 General Session

Part 7
Operation and Maintenance

63A-5b-701 Operation and maintenance for state facilities.

(1) As used in this section, "maintenance functions" means all programs and activities related to the operation and maintenance of a state facility, including preventive maintenance and inspection.
(2)
(a) The director shall direct or delegate maintenance functions for an agency, except for:
(i) the State Capitol Preservation Board; and
(ii) an institution of higher education.

(b) The director may delegate responsibility for maintenance functions to an agency only if:
(i) the agency requests the responsibility; and
(ii) the director determines that:
(A) the agency has the necessary resources and skills to comply with maintenance functions standards approved by the director; and

(B) the delegation would result in net cost savings to the state as a whole.

(c) The State Capitol Preservation Board and an institution of higher education are exempt from division oversight of maintenance functions.

(d) An institution of higher education shall comply with the division's facility maintenance functions standards.

(3)

(a) An institution of higher education shall annually report to the division, in a format required by the division, on the institution of higher education's compliance with the division's maintenance functions standards.

(b) The division shall:

(i) prescribe a standard format for reporting compliance with the division's maintenance functions standards;

(ii) report to the Legislature on the compliance or noncompliance with the standards; and

(iii) conduct periodic audits to ensure that institutions of higher education are complying with the standards and report the results of the audits to the Legislature.

Enacted by Chapter 152, 2020 General Session

63A-5b-702 Standards and requirements for state facilities -- Life-cycle cost effectiveness.

(1) As used in this section:

(a) "Clean energy system" means a system designed to use solar, wind, geothermal power, wood, hydropower, nuclear, or other clean energy source to heat, cool, or provide electricity to a building.

(b) "Life cycle cost-effective" means the most prudent cost of owning, operating, and maintaining a facility, including the initial cost, energy costs, operation and maintenance costs, repair costs, and the costs of energy conservation and clean energy systems.

(2) The director shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules:

(a) that establish standards and requirements for determining whether a state facility project is life cycle cost-effective;

(b) for the monitoring of an agency's operation and maintenance expenditures for a state-owned facility;

(c) to establish standards and requirements for utility metering;

(d) that create an operation and maintenance program for an agency's facilities;

(e) that establish a methodology for determining reasonably anticipated inflationary costs for each operation and maintenance program described in Subsection (2)(d);

(f) that require an agency to report the amount the agency receives and expends on operation and maintenance; and

(g) that provide for determining the actual cost for operation and maintenance requests for a new facility.

(3) The director shall:

(a) ensure that state-owned facilities, except for facilities under the control of the State Capitol Preservation Board, are life cycle cost-effective;

(b) conduct ongoing facilities audits of state-owned facilities; and

(c) monitor an agency's operation and maintenance expenditures for state-owned facilities as provided in rules made under Subsection (2)(b).

(4)

(a) An agency shall comply with the rules made under Subsection (2) for new facility requests submitted to the Legislature for a session of the Legislature after the 2017 General Session.
(b) The Office of the Legislative Fiscal Analyst and the Governor's Office of Planning and Budget shall, for each agency with operation and maintenance expenses, ensure that each required budget for the agency is adjusted in accordance with the rules described in Subsection (2)(e).

Amended by Chapter 53, 2024 General Session

63A-5b-703 Agency lease payments.

(1)
(a) Beginning July 1, 2020, the division shall implement a program to charge agencies, except institutions of higher education, lease payments for the agency's use and occupancy of space within a building.
(b) Before July 1, 2020, the division shall:
(i) conduct a market analysis of market lease rates for comparable space in buildings comparable to division-owned buildings; and
(ii) establish lease rates for an agency's use and occupancy of a division-owned building.
(c) The lease rates shall be:
(i) consistent with market rates for comparable space in comparable buildings;
(ii) calculated to cover:
(A) an amortized amount for capital replacement;
(B) an amount for capital improvements; and
(C) operation and maintenance costs; and
(iii) in proportion to legislative appropriations.

(2) In making appropriations to cover lease payments under this section, the Legislature shall create a line item, as defined in Section 63J-1-102, for each agency to fund the lease payments.

Enacted by Chapter 152, 2020 General Session

Part 8
Acquisitions of Real Property Interests

63A-5b-801 Definitions.

As used in this part:

(1) "Agency optional term" means an option that is exclusively exercisable by a leasing agency to extend the lease term.
(2) "High-cost lease" means a real property lease that:
(a) has an initial term including any agency optional term of 10 years or more; or
(b) will require lease payments of more than $5,000,000 over the term of the lease, including any agency optional term.
(3)
(a) "Leasing agency" means a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.
(b) "Leasing agency" does not include:

(i) the legislative branch;
(ii) the judicial branch; and
(iii) an institution of higher education.
(4) "Significant lease terms" includes the duration of the lease, the frequency of the periodic payments, a renewal clause, a purchase option, a cancellation clause, a repair and maintenance clause, and a restriction on use of the property.

Enacted by Chapter 152, 2020 General Session

63A-5b-802 Leasing responsibilities of the director.
(1) The director shall:
(a) prepare and submit a yearly request to the governor and Legislature for a designated amount of square footage by type of space to be leased by the division for that fiscal year;
(b) lease, in the name of the division, all real property space to be occupied by a leasing agency;
(c) in leasing space:
(i) use a process consistent with the best interest of the state, the requirements of the leasing agency, and the anticipated use of the property; and
(ii) comply with any legislative mandates contained in the appropriations act or other legislation;
(d) apply the criteria contained in Subsection (1)(f) to prepare a report evaluating each high-cost lease at least 12 months before the lease expires;
(e) evaluate each lease under the division's control and apply the criteria contained in Subsection (1)(f), as applicable, to evaluate the lease;
(f) in evaluating leases:
(i) determine whether the lease is cost-effective when the needs of the leasing agency to be housed in the leased facilities are considered;
(ii) determine whether another option such as construction, use of other state-owned space, or a lease-purchase agreement is more cost-effective than leasing;
(iii) determine whether the significant lease terms are cost-effective and provide the state with sufficient flexibility and protection from liability;
(iv) compare the proposed lease payments to the current market rates, and evaluate whether the proposed lease payments are reasonable under current market conditions;
(v) compare proposed significant lease terms to the current market, and recommend whether these proposed terms are reasonable under current market conditions; and
(vi) if applicable, recommend that the lease or modification to a lease be approved or disapproved;
(g) based upon the evaluation, include in the report recommendations that identify viable alternatives to:
(i) make the lease cost-effective; or
(ii) meet the leasing agency's needs when the lease expires; and
(h) upon request, provide the information included in the report to:
(i) the leasing agency benefitted by the lease; and
(ii) the Office of the Legislative Fiscal Analyst.
(2) The director may:
(a) subject to legislative appropriation, enter into a facility lease with a term of up to 10 years if the length of the lease's term is economically advantageous to the state; and
(b) subject to legislative appropriation, enter into a facility lease with a term of more than 10 years if the length of the lease's term is economically advantageous to the state.

Amended by Chapter 421, 2022 General Session

63A-5b-803 Reporting of leasing activity.

(1) The director shall:
  (a) prepare a standard form upon which a leasing agency and another state institution or entity can report the current and proposed lease activity of the leasing agency, institution, or entity, including any lease renewal; and
  (b) develop procedures and mechanisms within the division to:
    (i) obtain and share information about each leasing agency's real property needs; and
    (ii) provide oversight and review of lessors and lessees during the term of each lease.
(2) Each leasing agency, the Administrative Office of the Courts, and the board of trustees for each institution of higher education, shall report all current and proposed lease activity on the standard form prepared by the division to:
  (a) the division; and
  (b) the Office of the Legislative Fiscal Analyst.

Amended by Chapter 421, 2022 General Session

63A-5b-804 Leasing by the Administrative Office of the Courts -- Judicial Council approval required for high-cost lease -- Director's responsibilities.

(1) Before executing a high-cost lease or a modification to a lease that results in a high-cost lease, the Administrative Office of the Courts shall submit a draft of the new lease or modification to:
  (a) the Judicial Council; and
  (b) the director.
(2) The director shall:
  (a) review the draft submitted by the Administrative Office of the Courts; and
  (b) within 30 days after receiving the draft, submit a report on the draft to:
    (i) the Judicial Council; and
    (ii) the Office of the Legislative Fiscal Analyst.
(3) A report under Subsection (2)(b) shall contain:
  (a) the director's opinion about:
    (i) whether the lease or modification is cost-effective when the needs of the entity to be housed in the leased facility are considered;
    (ii) whether another option such as construction, use of other state-owned space, or a lease-purchase agreement is more cost-effective than leasing; and
    (iii) whether the significant lease terms are cost-effective and provide the state with sufficient flexibility and protection from liability;
  (b) a comparison of the proposed lease payments to the current market rates, and a recommendation as to whether the proposed lease payments are reasonable under current market conditions;
  (c) a comparison of proposed significant lease terms to the current market, and a recommendation as to whether the proposed terms are reasonable under current market conditions; and
  (d) a recommendation from the director that the lease or modification to a lease be approved or disapproved.
(4)

(a) The Administrative Office of the Courts may not execute a new high-cost lease or modification to an existing lease that will result in a high-cost lease unless the lease or modification is approved by a majority vote of the Judicial Council.
(b) The Judicial Council shall consider the recommendations of the director in determining whether to approve a high-cost lease or modification resulting in a high-cost lease.

Renumbered and Amended by Chapter 152, 2020 General Session

63A-5b-805 Leasing by higher education institutions.
(1) The Utah Board of Higher Education shall establish written policies and procedures governing leasing by an institution of higher education.
(2) Except as provided in Section 53H-9-602, an institution of higher education shall comply with the procedures and requirements of the Utah Board of Higher Education policies before signing or renewing a lease.

Amended by Chapter 9, 2025 Special Session 1

63A-5b-806 Division rules on the value of property bought or exchanged -- Exception.
(1) The division shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to ensure that, if the division buys or exchanges real property, the value of the real property is congruent with the proposed price and other terms of the purchase or exchange.
(2) The rules:
(a) shall establish procedures for determining the value of the real property;
(b) may provide that an appraisal, as defined in Section 61-2g-102, demonstrates the real property's value; and
(c) may require that the appraisal be completed by a state-certified general appraiser, as defined in Section 61-2g-102.
(3) The rules adopted under Subsection (1) do not apply to the purchase or exchange of real property, or an interest in real property:
(a) with a value of less than $500,000, as estimated by the division; or
(b) if the real property is part or all of the consideration received in exchange for division-owned real property conveyed, leased, or disposed of under Subsection 63A-5b-303(1)(a)(viii).

Amended by Chapter 480, 2024 General Session

63A-5b-807 Eminent domain of unincorporated city owned land.
(1) As used in this section:
(a) "County of the first class" means a county that is classified by population as a county of the first class under Section 17-60-104.
(b) "Unincorporated land" means land that before January 1, 2025, was not within the boundaries of a city.
(2) The division may exercise eminent domain, consistent with the procedures described in Title 78B, Chapter 6, Part 5, Eminent Domain, to condemn unincorporated land for the public use of constructing a new facility on the land for homelessness services provided by, or under contract with, the state if the land is owned by a city that is the seat of government for a county of the first class.

(3) The division may consult with the Department of Transportation for assistance in performing the division's duties under Subsection (2).

Amended by Chapter 17, 2025 Special Session 1

Part 9
Disposal of Division-owned Property

63A-5b-901 Definitions.

As used in this part:

(1) "Applicant" means a person who submits a timely, qualified proposal to the division.

(2) "Condemnee" means the same as that term is defined in Section 78B-6-520.3.

(3) "Division-owned property" means real property, including an interest in real property, to which the division holds title, regardless of who occupies or uses the real property.

(4) "Local government entity" means a county, city, town, special district, special service district, community development and renewal agency, conservation district, school district, or other political subdivision of the state.

(5) "Primary state agency" means a state agency for which the division holds title to real property that the state agency occupies or uses, as provided in Subsection 63A-5b-303(1)(a)(iv).

(6) "Private party" means a person who is not a state agency, local government entity, or public purpose nonprofit entity.

(7) "Public purpose nonprofit entity" means a corporation, association, organization, or entity that:

(a) is located within the state;

(b) is not a state agency or local government entity;

(c) is exempt from federal income taxation under Section 501(c)(3) or (19), Internal Revenue Code; and

(d) operates to fulfill a public purpose.

(8) "Qualified proposal" means a written proposal that:

(a) meets the criteria established by the division by rule under Section 63A-5b-903;

(b) if submitted by a local government entity or public purpose nonprofit entity, explains the public purpose for which the local government entity or public purpose nonprofit entity seeks a transfer of ownership or lease of the vacant division-owned property; and

(c) the director determines will, if accepted and implemented, provide a material benefit to the state.

(9) "Secondary state agency" means a state agency:

(a) that is authorized to hold title to real property that the state agency occupies or uses, as provided in Section 63A-5b-304; and

(b) for which the division does not hold title to real property that the state agency occupies or uses.

(10) "State agency" means a department, division, office, entity, agency, or other unit of state government.

(11) "Transfer of ownership" includes a transfer of the ownership of vacant division-owned property that occurs as part of an exchange of the vacant division-owned property for another property.

(12) "Vacant division-owned property" means division-owned property that:

(a) a primary state agency is not occupying or using; and

(b) the director has determined should be made available for:

(i) use or occupancy by a primary state agency; or
(ii) a transfer of ownership or lease to a secondary state agency, local government entity, public purpose nonprofit entity, or private party.
(13) "Written proposal" means a brief statement in writing that explains:
(a) the proposed use or occupancy, transfer of ownership, or lease of vacant division-owned property; and
(b) how the state will benefit from the proposed use or occupancy, transfer of ownership, or lease.

Amended by Chapter 283, 2026 General Session

63A-5b-902 Application of part.
(1) Except as stated in Subsection (1)(d), the provisions of this part, other than this section, do not apply to:
(a) the division's disposal or lease of division-owned property that would otherwise be subject to this part, if the division-owned property has a value under $500,000, as estimated by the division;
(b) a conveyance, lease, or disposal of division-owned property in connection with:
(i) the establishment of a state store, as defined in Section 32B-1-102; or
(ii) the construction of student housing;
(c) a conveyance, lease, or disposal of any part of the point of the mountain state land, as defined in Section 11-59-102, by the Point of the Mountain State Land Authority created in Section 11-59-201;
(d) a conveyance, lease, or disposal of division-owned property for fair market value, as determined by the division, under Subsection 63A-5b-303(1)(a)(viii), except that the following sections apply:
(i) Section 63A-5b-907.5;
(ii) Section 63A-5b-908;
(iii) Section 63A-5b-910;
(iv) Section 63A-5b-911; and
(v) Section 63A-5b-912; or
(e) a conveyance, lease, or disposal of any state-owned land, as defined in Section 11-70-101, by the Utah Fairpark Area Investment and Restoration District, created in Section 11-70-201.
(2) Nothing in Subsection (1)(a), (b), or (d) may be construed to diminish or eliminate the division's responsibility to manage division-owned property in the best interests of the state.

Amended by Chapter 419, 2024 General Session
Amended by Chapter 480, 2024 General Session

63A-5b-903 Rules made by the division.
The division may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that:
(1) establish criteria that a written proposal is required to satisfy in order to be a qualified proposal, including, if applicable, a minimum acceptable purchase price; and
(2) define criteria that the director will consider in making a determination whether a proposed use or occupancy, transfer of ownership, or lease of vacant division-owned property provides a material benefit to the state.

Amended by Chapter 169, 2022 General Session

63A-5b-904 Division authority with respect to vacant division-owned property -- Limitations.

(1) Subject to Section 63A-5b-909, the division may:

(a) provide for a primary state agency's occupancy or use of vacant division-owned property, if the director determines that the primary state agency's occupancy or use is in the best interests of the state;

(b) effect a transfer of ownership or lease of vacant division-owned property, as provided in this section; or

(c) refer vacant division-owned property to the Department of Transportation for sale by auction, as provided in Section 63A-5b-908.

(2) The division may effect a transfer of ownership or lease of vacant division-owned property without receiving fair market value in return if:

(a) the director determines that the transfer of ownership or lease is in the best interests of the state;

(b) for a proposed transfer of ownership or lease to a local government entity, public purpose nonprofit entity, or private party, the director determines that the local government entity, public purpose nonprofit entity, or private party intends to use the property to fulfill a public purpose;

(c) the director requests and receives a recommendation on the proposed transfer of ownership or lease from the Legislative Executive Appropriations Committee;

(d) the director communicates the Executive Appropriations Committee's recommendation to the executive director; and

(e) the executive director approves the transfer of ownership or lease.

(3)

(a) If the division effects a transfer of ownership of vacant division-owned property without receiving fair market value in return, the division shall require the documents memorializing the transfer of ownership to preserve to the division:

(i) in the case of a transfer of ownership of vacant division-owned property to a secondary state agency, local government entity, or public purpose nonprofit entity for no or nominal consideration, a right of reversion, providing for the ownership of the property to revert to the division if the property ceases to be used for the public benefit; or

(ii) in the case of any other transfer of ownership of vacant division-owned property, a right of first refusal allowing the division to purchase the property from the transferee for the same price that the transferee paid to the division if the transferee wishes to transfer ownership of the former vacant division-owned property.

(b) Subsection (3)(a) does not apply to the sale of vacant division-owned property at an auction under Section 63A-5b-908.

Amended by Chapter 480, 2024 General Session

63A-5b-905 Notice required before division may effect a transfer of ownership or lease of division-owned property for less than fair market value.

(1) Before the division may effect a transfer of ownership or lease of vacant division-owned property for less than fair market value, the division shall give notice as provided in Subsection (2).

(2) A notice required under Subsection (1) shall:

(a) identify and describe the vacant division-owned property;

(b) indicate the availability of the vacant division-owned property;
(c) invite persons interested in the vacant division-owned property to submit a written proposal to the division;
(d) indicate the deadline for submitting a written proposal;
(e) be posted on the division's website for at least 60 consecutive days before the deadline for submitting a written proposal, in a location specifically designated for notices dealing with vacant division-owned property;
(f) be posted on the Utah Public Notice Website created in Section 63A-16-601 for at least 60 consecutive days before the deadline for submitting a written proposal; and
(g) be sent by email to each person who has previously submitted to the division a written request to receive notices under this section.

Amended by Chapter 480, 2024 General Session

63A-5b-906 Submitting a written proposal for vacant division-owned property.
(1) A person may submit to the division a written proposal:
(a) in response to the division's notice under Section 63A-5b-905; or
(b) with respect to vacant division-owned property as to which the division has not given notice under Section 63A-5b-905.
(2) The division is not required to consider a written proposal or provide notice under Section 63A-5b-905 if the director determines that the written proposal is not a qualified proposal.
(3) If a person submits a qualified proposal to the division under Subsection (1)(b):
(a) the division shall:
(i) give notice as provided in Section 63A-5b-905; and
(ii) treat the qualified proposal as though it were submitted in response to the notice; and
(b) the person may, within the time provided for the submission of written proposals, modify the qualified proposal to the extent necessary to address matters raised in the notice that were not addressed in the initial qualified proposal.
(4) A person who fails to submit a qualified proposal to the division within 60 days after the date of the notice under Section 63A-5b-905 may not be considered for the vacant division-owned property.

Renumbered and Amended by Chapter 152, 2020 General Session

63A-5b-907 Priorities for vacant division-owned property -- Division to convey vacant division-owned property.
(1) This section applies to a proposed transfer of ownership or lease of vacant division-owned property at less than fair market value.
(2)
(a) An applicant that is a state agency has priority for vacant division-owned property over an applicant that is a local government entity, a public purpose nonprofit entity, and a private party.
(b) An applicant that is a local government entity and an applicant that is a public purpose nonprofit entity have:
(i) priority for vacant division-owned property over an applicant that is a private party; and
(ii) between them the same priority for vacant division-owned property.
(3) If the division receives multiple timely qualified proposals from applicants with the highest and same priority, the division shall:

(a) notify the executive director of:
(i) the availability of the vacant division-owned property; and
(ii) the applicants with the highest and same priority that have submitted qualified proposals; and
(b) provide the executive director with a copy of the timely qualified proposals submitted by the applicants with the highest and same priority.
(4) Within 30 days after being notified under Subsection (3), the executive director shall:
(a) determine which applicant's qualified proposal is most likely to result in the highest and best public benefit; and
(b) notify the division of the executive director's decision under Subsection (4)(a).
(5) The division shall effect a transfer of ownership or lease of the vacant division-owned property to:
(a) the applicant with the highest priority under Subsection (2), if the division receives a timely qualified proposal from a single applicant with the highest priority; or
(b) the applicant whose qualified proposal was determined by the executive director under Subsection (4) to be most likely to result in the highest and best public benefit, if the division receives multiple timely qualified proposals from applicants with the highest and same priority.

Amended by Chapter 421, 2022 General Session

63A-5b-907.5 Lease of division-owned property to a private party.
(1) If the division leases division-owned property to a private party, the division shall, within 30 days after a lease agreement is executed, provide written notice of the lease to:
(a) the municipality in which the division-owned property is located, if the division-owned property is within a municipality; or
(b) the county in whose unincorporated area the division-owned property is located, if the division-owned property is not located within a municipality.
(2) Nothing in this part may be used by a private party leasing division-owned property as a basis for not complying with applicable local land use ordinances and regulations.

Enacted by Chapter 421, 2022 General Session

63A-5b-908 Referring vacant division-owned property to the Department of Transportation for auction.
(1) The division may refer vacant division-owned property to the Department of Transportation for a public auction if:
(a) for a conveyance, lease, or disposal of vacant division-owned property for less than fair market value:
(i) the division has provided notice under Section 63A-5b-905 with respect to the vacant division-owned property; and
(ii) the division receives no qualified proposals in response to the notice under Section 63A-5b-905;
(b) the director determines that:
(i) there is no reasonable likelihood that within the foreseeable future:
(A) a primary state agency will use or occupy the vacant division-owned property; or
(B) a secondary state agency, local government entity, or public purpose nonprofit entity will seek a transfer of ownership or lease of the vacant division-owned property; and

(ii) disposing of the vacant division-owned property through a public auction is in the best interests of the state;
(c) the director requests and receives a recommendation on the proposed public auction from the Legislative Executive Appropriations Committee;
(d) the director communicates the Executive Appropriations Committee's recommendation to the executive director; and
(e) the executive director approves the public auction.
(2) If the division refers a vacant division-owned property to the Department of Transportation for public auction, the Department of Transportation shall publicly auction the vacant division-owned property under the same law and in the same manner that apply to a public auction of Department of Transportation property.
(3) At a public auction conducted under Subsection (2), the Department of Transportation may, on behalf of the division, accept an offer to purchase the vacant division-owned property.
(4) The division and the Department of Transportation shall coordinate together to:
(a) manage the details of finalizing any sale of the vacant division-owned property at public auction; and
(b) ensure that the buyer acquires proper title and that the division receives the net proceeds of the sale.
(5) If a public auction under this section does not result in a sale of the vacant division-owned property, the Department of Transportation shall notify the division and refer the vacant division-owned property back to the division.

Amended by Chapter 480, 2024 General Session

63A-5b-909 State real property subject to right of first refusal.
(1)
(a) If Section 78B-6-520.3 applies to vacant division-owned property, the division shall comply with Subsection 78B-6-520.3(3).
(b) If a condemnee accepts the division's offer to sell the vacant division-owned property as provided in Section 78B-6-520.3, the division shall:
(i) comply with the requirements of Section 78B-6-520.3; and
(ii) terminate any process to convey the vacant division-owned property.
(c) A condemnee may waive rights and benefits afforded under Section 78B-6-520.3 and instead seek a transfer of ownership or lease of vacant division-owned property under the provisions of this chapter in the same manner as any other person not entitled to the rights and benefits of Section 78B-6-520.3.
(2)
(a) If Section 78B-6-521 applies to the anticipated disposal of the vacant division-owned property, the division shall comply with the limitations and requirements of Subsections 78B-6-521(2) and (3).
(b) If the original grantor or a subsequent bona fide purchaser, or the original grantor's or subsequent bona fide purchaser's assignee, accepts an offer for sale as provided in Subsection 78B-6-521(2)(a), the division shall:
(i) sell the vacant division-owned property to the original grantor or subsequent bona fide purchaser, or the original grantor's or subsequent bona fide purchaser's assignee, in accordance with Section 78B-6-521; and
(ii) terminate any process under this chapter to convey the vacant division-owned property.

(c) An original grantor or subsequent bona fide purchaser, or the original grantor's or subsequent bona fide purchaser's assignee, may waive rights afforded under Section 78B-6-521 and instead seek a transfer of ownership or lease of vacant division-owned property in the same manner as any other person seeking a transfer of ownership or lease of vacant division-owned property to which Section 78B-6-521 does not apply.

Amended by Chapter 480, 2024 General Session

63A-5b-910 Disposition of proceeds received by division from sale of vacant division-owned property.

(1)
(a) Except as provided in Section 26B-1-331, the division shall pay into the state treasury the money received from the transfer of ownership or lease of vacant division-owned property.
(b) Money paid into the state treasury under Subsection (1)(a):
(i) becomes a part of the funds provided by law for carrying out the building program of the state; and
(ii) is appropriated for the purpose described in Subsection (1)(b)(i).

(2) Except as described in Subsection 63A-5b-407(7), the proceeds from the transfer of ownership or lease of vacant division-owned property belonging to or used by a particular state agency shall, to the extent practicable, be expended for the construction of buildings or in the performance of other work for the benefit of that state agency.

Amended by Chapter 329, 2023 General Session
Amended by Chapter 369, 2023 General Session

63A-5b-911 Authority to transfer land for commuter rail station and related development.

The division may transfer title to a parcel of land it owns in a county of the first class to a public transit district for the purpose of facilitating the development of a commuter rail transit station and associated transit oriented development if:

(1) the parcel is within one mile of the proposed commuter rail transit station and associated transit oriented development; and
(2) the division receives in return fair and adequate consideration.

Renumbered and Amended by Chapter 152, 2020 General Session

63A-5b-912 Report to Transportation and Infrastructure Appropriations Subcommittee.

The division shall, on or before the third Wednesday in November of every even-numbered year, present a written report to the Transportation and Infrastructure Appropriations Subcommittee that identifies state land and buildings that are no longer needed and can be sold by the state.

Amended by Chapter 271, 2025 General Session

Part 10
Energy Conservation and Efficiency

63A-5b-1001 Definitions.

As used in this part:

(1) "Energy efficiency measure" means an action taken or initiated by an agency that:
  (a) reduces the agency's energy or fuel use or resource energy consumption, water or other resource consumption, operation and maintenance costs, or cost of energy, fuel, water, or other resource; or
  (b) increases the agency's energy or fuel efficiency or resource consumption efficiency.
(2) "Energy efficiency program" means a program established under Section 63A-5b-1002 for the purpose of improving energy efficiency measures and reducing the energy costs for state facilities.
(3) "Fund" means the State Facility Energy Efficiency Fund created in Section 63A-5b-1003.
(4) "Performance efficiency agreement" means an agreement entered into by an agency whereby the agency implements one or more energy efficiency measures and finances the costs associated with implementation of performance efficiency measures using the stream of expected savings in costs resulting from implementation of the performance efficiency measures as a funding source for repayment.
(5)
  (a) "State facility" means any building, structure, or other improvement that is constructed on property that the state, any of the state's departments, commissions, institutions, or agencies, or a state institution of higher education owns or leases as a tenant.
  (b) "State facility" does not include:
    (i) an unoccupied structure that is a component of the state highway system;
    (ii) a privately owned structure that is located on property that the state, any of the state's departments, commissions, institutions, or agencies, or a state institution of higher education owns or leases as a tenant; or
    (iii) a structure that is located on land administered by the trust lands administration under a lease, permit, or contract with the trust lands administration.

Amended by Chapter 421, 2022 General Session

63A-5b-1002 State Building Energy Efficiency Program.

(1) The division shall:
  (a) develop and administer the energy efficiency program, which shall include guidelines and procedures to improve energy efficiency in the maintenance and management of state facilities;
  (b) provide information and assistance to agencies in the agencies' efforts to improve energy efficiency in state facilities;
  (c) analyze energy consumption by agencies to identify opportunities for improved energy efficiency;
  (d) establish an advisory group composed of representatives of agencies to provide information and assistance in the development and implementation of the energy efficiency program; and
  (e) submit to the governor and to the Transportation and Infrastructure Appropriations Subcommittee of the Legislature an annual report that:
    (i) identifies strategies for long-term improvement in energy efficiency;
    (ii) identifies goals for energy conservation for the upcoming year; and
    (iii) details energy management programs and strategies that were undertaken in the previous year to improve the energy efficiency of agencies and the energy savings achieved.
(2) Each agency shall:

(a) designate a staff member that is responsible for coordinating energy efficiency efforts within the agency with assistance from the division;
(b) provide energy consumption and costs information to the division;
(c) develop strategies for improving energy efficiency and reducing energy costs; and
(d) provide the division with information regarding the agency's energy efficiency and reduction strategies.

(3)
(a) An agency may enter into a performance efficiency agreement for a term of up to 20 years.
(b) Before entering into a performance efficiency agreement, the agency shall:
(i) utilize the division to oversee the project unless the project is exempt from the division's oversight or the oversight is delegated to the agency under the provisions of Section 63A-5b-701;
(ii) obtain the prior approval of the governor or the governor's designee; and
(iii) provide the Office of the Legislative Fiscal Analyst with a copy of the proposed agreement before the agency enters into the agreement.

(4) An agency may consult with the energy efficiency program manager within the division regarding:
(a) the cost effectiveness of energy efficiency measures; and
(b) ways to measure energy savings that take into account fluctuations in energy costs and temperature.

(5)
(a) Except as provided under Subsection (5)(c) and subject to future budget constraints, the Legislature may not remove energy savings from an agency's appropriation.
(b) An agency shall use energy savings to:
(i) fund the cost of the energy efficiency measures; and
(ii) if funds are available after meeting the requirements of Subsection (5)(b)(i), fund and implement new energy efficiency measures.
(c) The Legislature may remove energy savings if:
(i) an agency has complied with Subsection (5)(b)(i); and
(ii) no new cost-effective energy efficiency measure is available for implementation.

Amended by Chapter 271, 2025 General Session

63A-5b-1004 State facility energy efficiency data.

(1) On or before July 1, 2022, each state facility shall submit to the division, or verify that the division already collects, the utility information for the state facility's utilities for each month, beginning with May 2021 and ending with May 2022.

(2) A state facility shall submit the utility information described in Subsection (1):
(a) in a format approved by the division;
(b) for each location that the state facility uses; and
(c) for each of the following utilities that the state facility uses:
(i) water;
(ii) electric; and
(iii) natural gas.

(3) The division shall use the information received in accordance with this section to identify opportunities for increased energy efficiency at each state facility.

(4) Once the division has identified an energy efficiency project for a state facility, the staff of the state facility shall assist the division in completing the identified project.

Enacted by Chapter 116, 2021 General Session

Part 11
Miscellaneous Provisions

63A-5b-1101 Gifts, grants, and donations.

(1)

(a) The state or the division may receive a gift, grant, or donation to further the purposes of this part.

(b) A gift, grant, or donation described in Subsection (1)(a) may not revert to the General Fund.

(2)

(a) This Subsection (2) applies if:

(i) a donor donates land to an institution of higher education and commits to construct a building or buildings on the land; and

(ii) the institution of higher education:

(A) agrees to provide funds for the operation and maintenance costs of the building or buildings from sources other than state funds; and

(B) agrees that the building or buildings will not be eligible for state capital improvement funding.

(b) Notwithstanding any other provision of this chapter, an institution of higher education that receives a donation described in Subsection (2)(a) may:

(i) oversee and manage a construction project on the donated land without involvement, oversight, or management from the division; or

(ii) arrange for oversight and management of the construction project by the division.

(c) The role of compliance agency on a construction project on the donated land shall be provided by:

(i) the institution of higher education, for a construction project that the institution of higher education oversees and manages under Subsection (2)(b); or

(ii) the director, for a construction project that the division oversees and manages under Subsection (2)(b)(ii).

Enacted by Chapter 152, 2020 General Session

63A-5b-1102 Memorials by the state or state agencies.

(1) As used in this section:

(a) "Authorizing agency" means an agency that holds title to state land.

(b) "Authorizing agency" does not mean a special district under Title 17B, Limited Purpose Local Government Entities - Special Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act.

(2) The Legislature, the governor, or an authorizing agency may authorize the use or donation of state land for the purpose of maintaining, erecting, or contributing to the erection or maintenance of a memorial to commemorate individuals who have:

(a) participated in or have given their lives in any of the one or more wars or military conflicts in which the United States of America has been a participant; or

(b) given their lives in association with public service on behalf of the state, including firefighters, peace officers, highway patrol officers, or other public servants.

(3) The use or donation of state land in relation to a memorial described in Subsection (2) may include:

(a) using or appropriating public funds for the purchase, development, improvement, or maintenance of state land on which a memorial is located or established;

(b) using or appropriating public funds for the erection, improvement, or maintenance of a memorial;

(c) donating or selling state land for use in relation to a memorial; or

(d) authorizing the use of state land for a memorial that is funded or maintained in part or in full by another public or private entity.

(4) The Legislature, the governor, or an authorizing agency may specify the form, placement, and design of a memorial that is subject to this section if the Legislature, the governor, or the authorizing agency holds title to, has authority over, or donates the land on which a memorial is established.

(5) A memorial within the definition of a capital development project, as defined in Section 63A-5b-401, is required to be approved as provided for in Section 63A-5b-402.

(6) Nothing in this section may be construed as a prohibition of a memorial, including a memorial for a purpose not covered by this section, that:

(a) is erected within the approval requirements in effect at the time of the memorial's erection; or

(b) may be duly authorized through other legal means.

Amended by Chapter 16, 2023 General Session

63A-5b-1103 Making keys to buildings of state, political subdivisions, or colleges and universities without permission prohibited.

(1) As used in this section:

(a) "Applicable government entity" means a state agency, a political subdivision of the state, the Utah Board of Higher Education, or any college or university supported in whole or in part by the state.

(b) "Government facility" means a building, laboratory, facility, room, dormitory, hall, or other structure owned, licensed as a licensee, leased as a tenant, or lawfully occupied by an applicable government entity.

(2) An individual may not knowingly make or cause to be made any key or duplicate key for a government facility without the prior written consent of the applicable government entity.

(3) A person who violates this section is guilty of a class B misdemeanor.

Enacted by Chapter 152, 2020 General Session

63A-5b-1104 Notification to local governments for construction or modification of certain facilities.

(1)

(a) The director or the director's designee shall notify in writing the elected representatives of a local government entity directly and substantively affected by any diagnostic, treatment, parole, probation, or other secured facility project exceeding $500,000, if:

(i) the nature of the project has been significantly altered since an earlier notification;

(ii) the project would significantly change the nature of the functions presently conducted at the location; or

(iii) the project is new construction.

(b) At the request of the state entity or the local government entity, representatives from the state entity and the affected local entity shall conduct or participate in a local public hearing or hearings to discuss the issues described in Subsection (1)(a).

(2)

(a)

(i) Before beginning the construction of student housing on property owned by the state or an institution of higher education, the director shall provide written notice of the proposed construction, as provided in Subsection (2)(a)(ii), if any of the proposed student housing buildings is within 300 feet of privately owned residential property.

(ii) Each notice under Subsection (2)(a)(i) shall be provided to the legislative body and, if applicable, the mayor of:

(A) the county in whose unincorporated area the privately owned residential property is located; or

(B) the municipality in whose boundary the privately owned residential property is located.

(b)

(i) Within 21 days after receiving the notice required by Subsection (2)(a)(i), a county or municipality entitled to the notice may submit a written request to the director for a public hearing on the proposed student housing construction.

(ii) If a county or municipality requests a hearing under Subsection (2)(b)(i), the director and the county or municipality shall jointly hold a public hearing to provide information to the public and to allow the director and the county or municipality to receive input from the public about the proposed student housing construction.

Amended by Chapter 421, 2022 General Session

63A-5b-1105 Testing and inspection firm requirements.

The director shall ensure that any person performing testing and inspection work governed by the American Society for Testing Materials Standard E-329 on a public building under the director's supervision:

(1) fully complies with the American Society for Testing Materials standard specifications for an agency engaged in the testing and inspection of materials known as ASTM E-329; and

(2) carries a minimum of $1,000,000 of errors and omissions insurance.

Enacted by Chapter 152, 2020 General Session

63A-5b-1106 Critical land near state prison -- Definitions -- Preservation as open land -- Management and use of land -- Restrictions on transfer -- Wetlands development -- Conservation easement.

(1) For purposes of this section:

(a) "Corrections" means the Department of Corrections created under Section 64-13-2.

(b) "Critical land" means:

(i) a parcel of approximately 250 acres of land owned by the division and located on the east edge of the Jordan River between about 12300 South and 14600 South in Salt Lake County, approximately the southern half of whose eastern boundary abuts the Denver and Rio Grande Western Railroad right-of-way; and

(ii) any parcel acquired in a transaction authorized under Subsection (3)(c) as a replacement for a portion of the parcel described in Subsection (1)(b)(i) that is conveyed as part of the transaction.

(c)

(i) "Open land" means land that is:

(A) preserved in or restored to a predominantly natural, open, and undeveloped condition; and

(B) used for:

(I) wildlife habitat;

(II) cultural or recreational use;

(III) watershed protection; or

(IV) another use consistent with the preservation of the land in or restoration of the land to a predominantly natural, open, and undeveloped condition.

(ii)

(A) "Open land" does not include land whose predominant use is as a developed facility for active recreational activities, including baseball, tennis, soccer, golf, or other sporting or similar activity.

(B) The condition of land does not change from a natural, open, and undeveloped condition because of the development or presence on the land of facilities, including trails, waterways, and grassy areas, that:

(I) enhance the natural, scenic, or aesthetic qualities of the land; or

(II) facilitate the public's access to or use of the land for the enjoyment of its natural, scenic, or aesthetic qualities and for compatible recreational activities.

(2)

(a)

(i) The critical land shall be preserved in perpetuity as open land.

(ii) The long-term ownership and management of the critical land should eventually be turned over to the Department of Natural Resources created under Section 79-2-201 or another agency or entity that is able to accomplish the purposes and intent of this section.

(b) Notwithstanding Subsection (2)(a)(i) and as funding is available, certain actions should be taken on or with respect to the critical land, including:

(i) the development and implementation of a program to eliminate noxious vegetation and restore and facilitate the return of natural vegetation on the critical land;

(ii) the development of a system of trails through the critical land that is compatible with the preservation of the critical land as open land;

(iii) the development and implementation of a program to restore the natural features of and improve the flows of the Jordan River as it crosses the critical land;

(iv) the preservation of the archeological site discovered on the critical land and the development of an interpretive site in connection with the archeological discovery;

(v) in restoring features on the critical land, the adoption of methods and plans that will enhance the critical land's function as a wildlife habitat;

(vi) taking measures to reduce safety risks on the critical land; and

(vii) the elimination or rehabilitation of a prison dump site on the critical land.

(3)

(a) Except as provided in Subsections (3)(b) and (c), no interest in the critical land may be sold, assigned, leased, or otherwise transferred unless measures are taken to ensure that the critical land that is transferred will be preserved as open land in perpetuity.

(b) Notwithstanding Subsection (3)(a), exchanges of property may be undertaken to resolve boundary disputes with adjacent property owners and easements may be granted for trails and other purposes consistent with Subsection (2)(b) and with the preservation of the critical land as open land.

(c) The Department of Natural Resources may transfer title to a portion of the critical land described in Subsection (1)(b)(i) in exchange for a parcel of land if:

(i) the parcel being acquired is:

(A) open land; and

(B) located within one mile of the portion of critical land being transferred; and

(ii) the purpose of the exchange is to facilitate the development of a commuter rail transit station and associated transit oriented development.

(4) The division shall use the funds remaining from the appropriation under Laws of Utah 1998, Chapter 399, for the purposes of:

(a) determining the boundaries and legal description of the critical land;

(b) determining the boundaries and legal description of the adjacent property owned by the division;

(c) fencing the critical land and adjacent land owned by the division where appropriate and needed; and

(d) assisting to carry out the intent of this section.

(5)

(a) Notwithstanding Subsection (2)(a)(i), the division or its successor in title to the critical land may develop or allow a public agency or private entity to develop more wetlands on the critical land than exist naturally or existed previously.

(b)

(i) Subject to Subsections (3)(a) and (5)(b)(ii), the division or its successor in title may transfer jurisdiction of all or a portion of the critical land to a public agency or private entity to provide for the development and management of wetlands and designated wetland buffer areas.

(ii) Before transferring jurisdiction of any part of the critical land under Subsection (5)(b)(i), the division or its successor in title shall assure that reasonable efforts are made to obtain approval from the appropriate federal agency to allow mitigation credits in connection with the critical land to be used for impacts occurring anywhere along the Wasatch Front.

(6) Notwithstanding any other provision of this section, corrections shall have access to the cooling pond located on the critical land as long as that access to and use of the cooling pond are not inconsistent with the preservation of the critical land as open land.

(7) Corrections, the division, and all other state departments, divisions, or agencies shall cooperate together to carry out the intent of this section.

(8) In order to ensure that the land referred to in this section is preserved as open land, the division shall, as soon as practicable, place the land under a perpetual conservation easement in favor of an independent party such as a reputable land conservation organization or a state or local government agency with experience in conservation easements.

Renumbered and Amended by Chapter 152, 2020 General Session

63A-5b-1108 Water wise landscaping and state government facilities.

(1) As used in this section:

(a) "Active use" means regular use for a community purpose, playing, exercise, recreation, or regular outdoor activities, such as:

(i) a sports field;

(ii) a social gathering area;
(iii) an amphitheater;
(iv) a park;
(v) the playing area, including a rough, driving range, or chipping and putting green, of a golf course; or
(vi) a cemetery.

(b) "Canopy" means the layer of leaves, branches, and stems of trees or other plants that when viewed from above as of the sooner of maturity or five years after planting can be measured as a percentage of a land area shaded by the trees or other plants.

(c) "Division" means the Division of Water Resources.

(d) "Functional turf" means turf that:
(i) is dedicated to active use; or
(ii)
(A) is installed or maintained on an area with a slope of not more than 25%;
(B) is at least eight feet wide at the turf's narrowest point;
(C) is a native plant, has been hybridized for arid conditions, or has been designated as low water use by the Utah State University Extension; and
(D) is watered to the plant's needs and does not require overhead spray irrigation unless the overhead spray irrigation system has activated weather or soil based monitoring technology.

(e) "Grounds" means the portion of real property on which is located a state government facility designated for landscaping, including natural landscaping, whether fenced or unfenced, excluding building footprints and impervious surfaces.

(f) "Overhead spray irrigation" means above ground irrigation heads that spray water through a nozzle.

(g) "Park strip" means the area between the back of a curb or, if there is no curb, the edge of pavement and the sidewalk.

(h) "Reconstructed" means that a building is subject to construction that affects the exterior of the building or the building's grounds.

(i)
(i) "State agency" means a department, division, office, entity, agency, or other unit of state government.
(ii) "State agency" includes an institution of higher education.

(j)
(i) "State government facility" means a building, structure, or other improvement that is constructed on property owned by the state, the state's departments, commissions, institutions, or other state agency.
(ii) "State government facility" does not include:
(A) an unoccupied structure that is a component of the state highway system;
(B) a privately owned structure that is located on property owned by the state, the state's department, commission, institution, or other state agency; or
(C) a structure that is located on land administered by the trust lands administration under a lease, permit, or contract with the trust lands administration.

(k) "Turf" means a natural living ground cover that:
(i) produces a dense cover of contiguous plant coverage and an interconnected subsurface root network;
(ii) is installed or maintained on nonagricultural land; and
(iii) is closely mowed, managed grasses.

(l) "Water wise landscaping" means:
(i) installation of plant materials suited to the microclimate and soil conditions that can:
(A) remain healthy with minimal irrigation once established; or
(B) be maintained without the use of overhead spray irrigation, except for a functional turf area that uses an active weather or soil based monitoring technology;
(ii) use of water for outdoor irrigation through proper and efficient irrigation design and water application;
(iii) use of other landscape design features that:
(A) minimize the need of the landscape for supplemental water from irrigation; or
(B) reduce the landscape area dedicated to turf that is not functional turf; and
(iv) inclusion of a canopy.
(m) "Weather or soil based monitoring technology" means one of the following technologies that allow watering schedules to better match a plant's water needs:
(i) a weather-based irrigation controller that uses local weather and landscape conditions to tailor watering schedules; or
(ii) a soil moisture-based irrigation controller or soil moisture sensor that monitors moisture levels in the soil to prevent irrigation when water is not needed.

(2)
(a) Unless exempted under Subsection (2)(b), a state agency that owns or occupies a state government facility that is built or reconstructed on or after May 6, 2026, may not have turf that is not functional turf:
(i) that exceeds the lesser of:
(A) 20% of the grounds of the state government facility; or
(B) the percentage of grounds allowed by ordinance in the municipality or county where the state government facility is located; or
(ii) in a park strip.
(b) The division may exempt a state government facility from the restrictions of Subsection (2)(a) if the division determines that the purposes of a state agency that occupies the state government facility requires additional turf that is not functional turf.

(3)
(a) A state agency shall reduce the state agency's outdoor water use as compared to the state agency's outdoor water use for fiscal year 2020:
(i) in an amount equal to or greater than 5% by the end of fiscal year 2023; and
(ii) in an amount equal to or greater than 25% by the end of fiscal year 2026.
(b) A state agency shall submit the following information to the division:
(i) by no later than October 1, 2022:
(A) the state agency's water use for fiscal year 2020; and
(B) the state agency's water use for fiscal year 2022;
(ii) by no later than October 1, 2023, the state agency's water use for fiscal year 2023; and
(iii) by no later than October 1, 2026, the state agency's water use for fiscal year 2026.
(c) The division shall:
(i) post the information provided to the division under this Subsection (3) on a public website; and
(ii) by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish a uniform measure for purposes of this section of a state agency's water use.

(4) Except when allowed by the division, a state agency may not use overhead spray irrigation to water landscapes at a state government facility between the hours of 10 a.m. and 6 p.m.

(5) A state agency shall do the following at a state government facility:

(a) follow weekly lawn watering guides if issued by the division;
(b) manually shut off overhead spray irrigation systems during rain and wind events if the landscape irrigation system does not have activated weather or soil based monitoring technology;
(c) implement a leak-detection and repair program for outdoor use;
(d) coordinate with the division to implement water efficient methods, technologies, and practices;
(e) at least annually:
(i) evaluate opportunities to update irrigation technology with devices that:
(A) meet national recognized standards for efficiency;
(B) include rain and wind shutoff functions; and
(C) include soil moisture sensors;
(ii) evaluate opportunities to:
(A) subject to Subsection (2), limit turf on the grounds of an existing state government facility and replace turf with water wise landscaping, including native plant species described in Subsection (1)(d)(ii)(C);
(B) update facility-management technology to include metering for water-consuming processes related to irrigation and mechanical systems; and
(C) add activated weather or soil based monitoring technology to overhead spray irrigation systems; and
(iii) audit and repair a landscape irrigation system so that the landscape irrigation system is operating at maximum acceptable efficiency, except that for a landscape irrigation system installed on or after May 6, 2026, the minimum distribution uniformity of the landscape irrigation system shall equal or exceed 75%;
(f) at the time a state government facility is built or reconstructed, consider landscaping options that include functional turf;
(g) select low-water turf grass when replacing or installing lawn or turf except that the division may exempt a state agency from this requirement if use of low-water turf is not practical due to the existing slope, erosion, stoniness, or other features of the landscape; and
(h) work cooperatively with state institutions of higher education to use best practices and the most recent technologies in landscape irrigation systems.

(6)
(a) Except as provided in Subsection (6)(b), in addition to complying with the other provisions of this section, a state agency that owns or occupies a state government facility that is built or reconstructed on or after May 6, 2026, shall use water wise landscaping for the grounds of the state government facility including ensuring that canopy, which may include functional turf, covers at least 50% of the grounds of the state government facility.
(b) The amount of canopy or functional turf installed pursuant to Subsection (6)(a) may not exceed what is allowed by ordinance in the municipality or county where the state government facility is located.

(7)
(a) The Division of Facilities Construction and Management shall routinely audit state government facilities to:
(i) document distribution uniformity at the time of the audit of a landscape irrigation system; and
(ii) for a landscape irrigation system that does not meet or exceed 75% distribution uniformity, identify and document specific action items required to achieve at least 75% distribution uniformity.
(b) The director of the Division of Facilities Construction and Management may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to incorporate

an audit under this Subsection (7) with a facility condition audit conducted by the Division of Facilities Construction and Management.

Amended by Chapter 346, 2026 General Session

63A-5b-1109 Buildings and facilities to which chapter applies -- Standards available to interested parties -- Division of Facilities Construction and Management staff to advise, review, and approve plans when possible.

(1)
(a) The standards in this section apply to all buildings and facilities used by the public that are constructed or remodeled in whole or in part by the use of state funds, or the funds of any political subdivision of the state.
(b) All of those buildings and facilities constructed in Utah after May 12, 1981, shall conform to the standard prescribed in this section except buildings, facilities, or portions of them, not intended for public use, including:
(i) caretaker dwellings;
(ii) service buildings; and
(iii) heating plants.

(2) This section applies to temporary or emergency construction as well as permanent buildings.

(3)
(a) The standards established in this section apply to the remodeling or alteration of any existing building or facility within the jurisdictions set forth in this section where the remodeling or alteration will affect an area of the building or facility in which there are architectural barriers for persons with a physical disability.
(b) If the remodeling involves less than 50% of the space of the building or facility, only the areas being remodeled need comply with the standards.
(c) If remodeling involves 50% or more of the space of the building or facility, the entire building or facility shall be brought into compliance with the standards.

(4)
(a) All individuals and organizations are encouraged to apply the standards prescribed in this section to all buildings used by the public, but that are financed from other than public funds.
(b) The Division of Facilities Construction and Management shall:
(i) make the standards established by this section available to interested individuals and organizations; and
(ii) upon request and to the extent possible, make available the services of the Division of Facilities Construction and Management staff to advise, review, and approve plans and specifications in order to comply with the standards of this section.

(5)
(a) This section is concerned with nonambulatory disabilities, semiambulatory disabilities, sight disabilities, hearing disabilities, disabilities of incoordination, and aging.
(b) This section is intended to make all buildings and facilities covered by this section accessible to, and functional for, persons with a physical disability.

(6) The standards of this section are the current edition of planning and design criteria to prevent architectural barriers for the aged and persons with a physical disability, as promulgated by the Division of Facilities Construction and Management.

(7) The responsibility for adoption of the planning and design criteria referred to in this section, and enforcement of this section shall be as follows:
(a) where state school funds are utilized, the State Board of Education;

(b) where state funds are utilized, the Division of Facilities Construction and Management; and
(c) where funds of political subdivisions are utilized, the governing board of the county or municipality in which the building or facility is located.

Renumbered and Amended by Chapter 329, 2023 General Session

Part 12
Public School Construction Oversight

63A-5b-1201 General provisions -- Definitions.
(1) This part does not apply to micro-education entities as defined in Section 53G-6-201.
(2) As used in this part:
(a) "Charter school" means the same as that term is defined in Section 53G-5-102.
(b) "LEA" means a school district or charter school.
(c) "Public school construction" means construction work on a new public school facility or major alteration of an existing public school facility with a total project cost exceeding the delineated thresholds for a capital development project or capital improvement project as defined in Section 63A-5b-401.
(d) "School construction liaison" means the individual designated under Section 63A-5b-1212 to coordinate between the division and the state board regarding public school construction matters.
(e) "School district" means a local school district established under Title 53G, Chapter 3, School District Creation and Change.
(f) "State board" means the same as that term is defined in Section 53E-1-102.

Enacted by Chapter 225, 2026 General Session

63A-5b-1202 Division authority over public school construction -- Construction standards.
(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing comprehensive standards for public school construction that shall include:
(a) minimum and maximum real property requirements;
(b) cost per square foot parameters;
(c) building material quality and cost standards;
(d) parking and access requirements;
(e) standardized cost reporting requirements;
(f) mandatory plan review and approval procedures;
(g) qualified reviewer certification requirements;
(h) a process for permitting of public school construction in accordance with Section 63A-5b-1218;
(i) a process for a school district to report project related issues;
(j) other construction related requirements;
(k) transition and replacement of existing State Board of Education rules related to school construction;
(l) facility condition assessment requirements, including:
(i) frequency of assessments;

(ii) qualifications for third-party engineering firms conducting assessments;
(iii) standardized assessment methodologies; and
(iv) reporting and database requirements;
(m) building maintenance standards for public school facilities;
(n) building commissioning requirements, including:
(i) commissioning scope and procedures;
(ii) qualified commissioning agent requirements;
(iii) functional performance testing standards;
(iv) commissioning documentation and closeout requirements; and
(v) ongoing commissioning for major building systems;
(o) construction delivery method criteria and approval procedures consistent with Section 63G-6a-1302;
(p) construction manager or general contractor use restrictions and oversight requirements in accordance with Subsections 63G-6a-1302(4) and (5);
(q) factors to be considered in selecting appropriate delivery methods under Subsection 63G-6a-1302(3);
(r) standards for school district coordination with municipalities and counties regarding school siting, traffic impacts, and site safety considerations; and
(s) cost matrix establishment and application, including:
(i) cost per square foot parameters by building type and region;
(ii) allowable cost ranges and variance thresholds;
(iii) factors for adjusting costs based on project complexity;
(iv) pre-construction approval procedures and timelines; and
(v) appeal procedures for cost matrix determinations.

(2) In developing the rules described in Subsection (1), the division shall consider:
(a) project costs;
(b) location factors, including rural or urban setting and climate;
(c) projected student population growth or declines;
(d) specific needs of different school types and grade levels;
(e) year-round use requirements; and
(f) accessibility compliance under state and federal law.

(3) The division shall consult with:
(a) the fire marshal;
(b) the school construction liaison on educational programming needs and coordination of safety and security requirements;
(c) representatives from school districts; and
(d) architects, engineers, and construction professionals.

(4) As described in Section 63A-5b-1213, the division may establish fee-for-service construction management programs to:
(a) provide professional construction oversight for a school district lacking internal capacity;
(b) ensure consistent application of standards across all projects;
(c) leverage state procurement expertise and economies of scale; and
(d) reduce compliance risks for complex projects.

(5) The division shall require an LEA to:
(a) review division rules and policies before beginning construction;
(b) demonstrate compliance with rules and policies as a condition of permit approval;
(c) use qualified, certified inspectors for all required inspections; and

(d) submit monthly construction reports through the online system described in Section 63A-5b-1207.

(6) The school construction liaison, in coordination with the School Safety Center established under Section 53G-8-802 and the state security chief appointed under Section 53-22-102, shall:

(a) ensure compliance with mandatory safety and security standards established under Section 53-22-102;

(b) review construction plans to verify that proposed designs meet mandatory safety and security requirements;

(c) coordinate with the division regarding safety and security compliance before the division issues construction permits; and

(d) report safety and security compliance to the division as part of the plan approval process under Section 63A-5b-1205.

(7) The division shall collaborate with the state fire marshal, state security chief, and local governmental entities to:

(a) examine plans and specifications for school buildings;

(b) verify inspections during and following construction; and

(c) perform other functions necessary to ensure compliance.

(8) In exercising oversight authority, the division shall recognize that:

(a) public school construction is typically funded through local bond measures approved by school district voters;

(b) school facilities are owned and operated by the school district;

(c) local communities have legitimate interests in facility design and construction decisions; and

(d) division oversight is intended to ensure standardized cost controls, compliance with safety, efficiency, and accountability standards while preserving appropriate local autonomy.

(9) The division may delegate oversight authority to qualified school districts as provided in Section 63A-5b-1217.

(10) A school district may appeal division determinations under this section to the appeals panel established under Section 63A-5b-1221.

(11) The division shall require:

(a) building commissioning for all new construction and major renovations exceeding $5,000,000, including:

(i) commissioning of mechanical, electrical, plumbing, and building envelope systems;

(ii) verification of system performance against design intent;

(iii) training of facility staff on commissioned systems; and

(iv) delivery of comprehensive commissioning documentation;

(b) facility condition assessments:

(i) every five years for all facilities over 20 years old;

(ii) conducted by qualified third-party architectural and engineering firms;

(iii) addressing all major building systems and components; and

(iv) integrated with the deferred maintenance reporting under Section 63A-5b-1210.

Enacted by Chapter 225, 2026 General Session

63A-5b-1203 Construction delivery methods -- Restrictions.

(1) For public school construction exceeding $3,000,000, an LEA shall use one of the following delivery methods authorized under Section 63G-6a-1302:

(a) design-bid-build;

(b) design-build; or

(c) a construction manager general contractor, subject to the restrictions in Subsection (2).

(2)

(a) An LEA may use a construction manager general contractor delivery method if:

(i) the LEA demonstrates to the division that the project meets appropriate criteria for using a construction manager general contractor under Subsection 63G-6a-1302(3);

(ii) the LEA employs or contracts with qualified construction management staff with demonstrated construction manager general contractor experience; and

(iii) the LEA submits a detailed project management plan approved by the division.

(b) The division may only deny approval for a construction manager general contractor delivery method if:

(i) the LEA lacks sufficient expertise to manage the project;

(ii) the project does not meet appropriate criteria under Subsection 63G-6a-1302(3); or

(iii) other methods of delivery would provide better cost control and project outcomes.

(3) The division shall:

(a) establish clear criteria for when a construction manager general contractor delivery method is appropriate, considering the factors described in Subsection 63G-6a-1302(3);

(b) provide training to an LEA on:

(i) proper implementation of each delivery method authorized under Section 63G-6a-1302;

(ii) cost control measures for each delivery method; and

(iii) circumstances when each delivery method is most appropriate; and

(c) require additional oversight and reporting for projects using a construction manager or general contractor.

(4) For projects under $3,000,000, an LEA shall use design-bid-build unless the division approves an alternative delivery method under Section 63G-6a-1302.

(5) An LEA shall comply with all procurement requirements under Title 63G, Chapter 6a, Utah Procurement Code, when using any construction delivery method, including:

(a) requirements for selection of contractors in Subsection 63G-6a-1302(5) when using a construction manager or general contractor;

(b) requirements for subcontractor procurement in Subsection 63G-6a-1302(5)(b); and

(c) any other applicable procurement standards established in Title 63G, Chapter 6a, Utah Procurement Code.

(6) For projects exceeding $500,000, an LEA shall select contractors only from the qualified contractor registry established under Section 63A-5b-1216.

(7) The contractor registry requirement in Subsection (6):

(a) establishes pre-qualification standards but does not replace competitive procurement requirements;

(b) limits the pool of eligible bidders to qualified contractors; and

(c) applies to all delivery methods authorized under this section.

Enacted by Chapter 225, 2026 General Session

63A-5b-1204 Architect and design professional cost oversight.

(1) The division shall establish and publish maximum allowable fees for both basic services and complexities for architect and design professional services based on:

(a) project size and complexity;

(b) regional market conditions;

(c) industry standards for educational facilities; and

(d) historical cost data from comparable projects.

(2) An LEA shall:
(a) ensure that no contract for architect or design professional services exceeds the maximum fees established by the division under Subsection (1);
(b) submit all proposed contracts to the division for verification of compliance with maximum fee limits before execution; and
(c) demonstrate through competitive procurement that proposed fees represent fair market value within the established maximums.
(3) If an LEA believes a project requires fees exceeding the division's maximum allowable fees, the LEA shall:
(a) submit a detailed written request to the division before soliciting proposals;
(b) provide documentation of unique project circumstances requiring specialized expertise;
(c) demonstrate that the project cannot be completed within the fee schedule; and
(d) obtain written approval from the division before proceeding.
(4) The division shall:
(a) review cost submissions within 15 business days;
(b) provide written explanation for any required modifications; and
(c) update cost benchmarks annually based on market conditions.
(5) The division shall develop and maintain a library of standardized school design templates developed in collaboration with architects experienced in the design of school facilities that:
(a) provide pre-approved design options for common school types and sizes;
(b) reduce architectural costs through standardized specifications;
(c) accelerate the approval process for school districts using standard designs;
(d) allow modifications for site-specific requirements; and
(e) are updated every five years to reflect current educational needs.
(6) The division shall develop and maintain a library of standardized school design templates developed in collaboration with architects experienced in the design of school facilities that:
(a) provide pre-approved design options for common school types and sizes;
(b) reduce architectural costs through:
(i) reduced design scope for projects using prototype designs;
(ii) standardized specifications and details;
(iii) elimination of redundant design work; and
(iv) lower fee schedule tiers for prototype-based projects;
(c) accelerate the approval process through:
(i) pre-approved building systems and layouts;
(ii) reduced plan review time for projects adhering to prototype designs; and
(iii) streamlined permitting when no significant prototype modifications are made;
(d) allow modifications for site-specific requirements; and
(e) are updated every five years to reflect current educational needs and building standards.
(7) An LEA using a standardized design prototype:
(a) shall comply with all procurement requirements under Title 63G, Chapter 6a, Utah Procurement Code;
(b) may receive reduced architect fees reflecting the limited scope of site adaptation work;
(c) may receive an expedited plan review within 10 business days if no significant modifications are made;
(d) is encouraged to use design-build delivery methods with prototype designs to maximize cost savings; and
(e) shall coordinate with the division on any proposed modifications to ensure continued compliance with prototype standards.

(8) An LEA shall procure architect and design professional services:
(a) in accordance with Title 63G, Chapter 6a, Part 15, Design Professional Services;
(b) using qualifications-based selection procedures as required by Subsection 63G-6a-1502(1);
(c) based on demonstrated competence and qualification for the type of services required; and
(d) not based solely on price.
(9) An LEA may appeal the division's maximum fee determinations or denials of requests for fee exceptions to the appeals panel established under Section 63A-5b-1221.

Enacted by Chapter 225, 2026 General Session

63A-5b-1205 Plan review and approval authority.
(1) In accordance with the division's permitting authority described in Section 63A-5b-1218, the division shall review and approve or deny all construction documents for public school construction:
(a) within 10 business days; and
(b) before an LEA may begin construction.
(2) The division's plan review shall verify compliance with:
(a) adopted building codes and standards;
(b) division construction rules;
(c) accessibility requirements;
(d) energy code compliance;
(e) structural engineering requirements;
(f) fire and school safety provisions;
(g) mandatory safety and security standards;
(h) emergency response and evacuation protocols required under Subsection 53-22-102(3)(c); and
(i) other building or construction codes the division determines relevant.
(3) The division may require corrections to construction documents and may not approve plans that fail to meet applicable standards.
(4) An LEA may not begin construction until the division has issued a written approval of the construction documents and a permit under Section 63A-5b-1218.
(5) Before approving any construction contract exceeding $1,000,000, an LEA shall:
(a) submit proposed contract costs to the division for benchmark comparison when such comparisons become reasonably available following the division's establishment of a baseline;
(b) provide written justification for any costs exceeding division benchmarks by more than 10%;
(c) demonstrate compliance with standardized procurement procedures; and
(d) receive division approval before contract execution.
(6) Before beginning any public school construction project, an LEA shall:
(a) submit a pre-construction application to the division that includes:
(i) detailed project scope and specifications;
(ii) preliminary cost estimates;
(iii) a proposed project timeline; and
(iv) funding sources and financial capacity documentation;
(b) receive division approval that the project:
(i) fits within the cost matrix established by division rule;
(ii) meets cost per square foot parameters for the building type and region;
(iii) demonstrates reasonable and appropriate costs for the proposed scope; and

(iv) complies with all applicable standards and requirements; and
(c) demonstrate that the project costs are consistent with:
(i) division cost benchmarks for similar projects;
(ii) regional cost factors;
(iii) current market conditions; and
(iv) industry standards for educational facilities.
(7) The division shall:
(a) review pre-construction applications within 15 business days;
(b) approve, conditionally approve with modifications, or deny applications based on cost matrix compliance;
(c) provide written explanation for any required modifications or denials;
(d) work with the LEA to bring non-compliant projects into compliance with the cost matrix; and
(e) maintain records of all project approvals and cost matrix determinations.
(8) The division may not issue a construction permit under Section 63A-5b-1218 until the project has received cost matrix approval under this section.
(9) The division may delegate plan review responsibilities to qualified third-party reviewers subject to division oversight and final approval.
(10) An LEA may appeal the following determinations under this section to the appeals panel established under Section 63A-5b-1221:
(a) denial of construction permit applications;
(b) cost matrix determinations under Subsections (6) and (7);
(c) required plan corrections under Subsection (3);
(d) pre-construction application denials under Subsection (7)(b); and
(e) conditions imposed on project approvals.

Enacted by Chapter 225, 2026 General Session

63A-5b-1206 Mandatory technical compliance requirements.
(1) The division shall establish and enforce specific technical standards including:
(a) fire wall construction and continuity requirements as described in International Building Code, Chapter 7;
(b) accessibility compliance verification procedures as described in International Code Council A117.1;
(c) energy code inspection protocols with mandatory R-value verification;
(d) mechanical, plumbing, and electrical system review depth requirements;
(e) special inspection requirements for both structural and nonstructural elements; and
(f) structural observation reporting mandates for Risk Category III buildings as defined in the International Building Code adopted under Section 15A-1-204.
(2) The division may not issue a construction permit without verified compliance with Subsection (1).
(3) The division shall use qualified plan reviewers and inspectors from the roster established under Section 63A-5b-1220 for all plan review and inspection activities.
(4) Requirements related to safety and security standards established under Section 53-22-102 shall be coordinated through the school construction liaison as provided in Subsection 63A-5b-1202(6).
(5) A school district may appeal technical compliance determinations under this section to the appeals panel established under Section 63A-5b-1221.

Enacted by Chapter 225, 2026 General Session

63A-5b-1207 Online document management system.

(1) The division shall develop and maintain an online document management system that:
  (a) maintains all required construction and inspection documentation;
  (b) enables real-time verification of compliance with statutes and rules;
  (c) tracks pre-construction permit submissions and approvals;
  (d) facilitates enforcement through automated notifications;
  (e) provides reporting capabilities for oversight and auditing; and
  (f) ensures secure access for authorized users.
(2) An LEA shall use the online system to:
  (a) submit all required pre-construction documentation;
  (b) upload inspection reports and certifications;
  (c) report construction costs using standardized formats; and
  (d) track project milestones and compliance status.
(3) The division shall provide training and technical support for LEAs, including proper use of the online document management system.

Enacted by Chapter 225, 2026 General Session

63A-5b-1208 Inspection verification and monitoring.

(1) The division shall establish inspection verification procedures that:
  (a) go beyond simple attestation to verify actual compliance;
  (b) include regular monitoring of inspection documentation;
  (c) provide mechanisms for addressing noncompliance; and
  (d) coordinate with local governmental entities as required by law, including Sections 10-9a-305 and 17-27a-305.
(2) Before beginning construction, an LEA shall:
  (a) provide all required notices in accordance with Section 53E-3-703;
  (b) obtain all required permits from the division in accordance with Section 63A-5b-1218;
  (c) submit complete construction documents to the division;
  (d) demonstrate compliance with division rules and policies; and
  (e) provide evidence of qualified inspection arrangements that meet the requirements described in Subsection 63A-5b-1220.
(3) During construction, an LEA shall:
  (a) use qualified, certified inspectors the division approves for all required inspections;
  (b) submit inspection reports through the online system described in Section 63A-5b-1207;
  (c) notify the division of any significant changes or issues;
  (d) maintain detailed inspection records;
  (e) coordinate with local building officials;
  (f) as required, provide special inspection reports for all International Building Code, Chapter 17, requirements;
  (g) submit structural observation reports for buildings with an occupancy greater than 250; and
  (h) document correction of all deficiencies before proceeding.
(4) The division may:
  (a) conduct random audits of inspection procedures;
  (b) require additional inspections when warranted;
  (c) review and approve alternative inspection arrangements; and

(d) suspend construction permits for serious violations.

(5) Upon completion of construction and verification of all required inspections, the division shall issue a certificate authorizing permanent occupancy if:

(a) all required inspections have been completed by qualified inspectors on the division's approved roster;

(b) all inspection reports verify compliance with applicable codes and standards;

(c) all identified deficiencies have been corrected and documented;

(d) the LEA has submitted all required closeout documentation through the online system described in Section 63A-5b-1207;

(e) structural observation reports have been submitted for buildings with an occupancy greater than 250 as required under Subsection (3)(g);

(f) special inspection reports verify compliance with all International Building Code, Chapter 17, requirements; and

(g) the project complies with mandatory safety and security standards established by the state security chief under Section 53-22-102.

(6) The division shall:

(a) review occupancy certificate applications within 10 business days of receiving complete documentation;

(b) issue written certificates that include:

(i) the project address and description;

(ii) the authorized occupancy type and capacity;

(iii) verification that all inspections confirm code compliance;

(iv) the effective date of the certificate; and

(v) any conditions or limitations on occupancy;

(c) maintain a database of all occupancy certificates issued; and

(d) provide copies of certificates to:

(i) the LEA;

(ii) the municipality or county where the facility is located; and

(iii) the local fire authority.

(7)

(a) A certificate authorizing permanent occupancy issued by the division under this section:

(i) is the exclusive certificate required for public school facilities subject to this part;

(ii) satisfies all municipal and county occupancy requirements under Sections 10-20-304 and 17-79-305; and

(iii) authorizes the LEA to occupy and use the facility for educational purposes.

(b) Municipalities and counties shall accept the division's certificate without requiring additional local certificates of occupancy.

(8) If the division determines that a facility does not meet requirements for occupancy, the division shall:

(a) deny the occupancy certificate application;

(b) provide written explanation of all deficiencies requiring correction;

(c) specify a timeline for the LEA to address deficiencies; and

(d) allow the LEA to resubmit for occupancy certification after corrections are made.

(9) The LEA shall notify the division within 10 days of beginning occupancy of any facility for which the division has issued an occupancy certificate.

(10) For temporary or partial occupancy during construction:

(a) an LEA may request a temporary certificate of occupancy from the division;

(b) the division may issue a temporary certificate if:

(i) the portion to be occupied meets all safety and code requirements;
(ii) the LEA demonstrates that temporary occupancy will not create safety hazards;
(iii) appropriate separation exists between occupied and construction areas; and
(iv) the LEA provides a timeline for completing remaining work; and
(c) temporary certificates expire upon the earlier of:
(i) issuance of a permanent occupancy certificate; or
(ii) 180 days from issuance, unless extended by the division for good cause.
(11) An LEA may appeal the following determinations under this section to the appeals panel established under Section 63A-5b-1221:
(a) denial of occupancy certificates under Subsection (8);
(b) conditions or limitations imposed on occupancy under Subsection (6)(b)(v);
(c) denial of temporary occupancy certificates under Subsection (10);
(d) requirements for additional inspections under Subsection (4)(b); and
(e) determinations that deficiencies shall be corrected before occupancy.

Enacted by Chapter 225, 2026 General Session

63A-5b-1209 Historical project documentation and information requests.
(1) Upon written request from the division, an LEA shall provide:
(a) in accordance with Subsection (7), documentation and information regarding construction projects;
(b) cost data, construction documents, and project records;
(c) contractor and vendor information and performance records;
(d) change order documentation and justifications;
(e) inspection records and certificates of occupancy;
(f) as-built drawings and project closeout documentation;
(g) warranty information and maintenance records; and
(h) any other project-related information the division determines necessary for:
(i) establishing cost benchmarks and databases;
(ii) analyzing construction cost trends;
(iii) developing standardized design templates;
(iv) creating training programs and best practices; or
(v) other purposes related to public school construction oversight.
(2) An LEA shall provide requested information:
(a) within 90 days of receiving the division's written request;
(b) in the format specified by the division;
(c) organized and indexed for efficient review;
(d) with complete documentation for each requested project; and
(e) at no cost to the division.
(3) If an LEA is unable to provide requested information within 30 days due to volume or complexity, the LEA shall:
(a) notify the division within 10 days of receiving the request;
(b) provide a detailed explanation of the delay;
(c) propose a reasonable timeline for providing the information; and
(d) provide interim updates on progress.
(4) The division may use the information collected under this section to:
(a) populate the construction cost database described in Section 63A-5b-1210;
(b) establish baseline cost benchmarks;

(c) identify best practices and areas for improvement;
(d) develop training materials and resources;
(e) create standardized design templates;
(f) conduct research on construction cost drivers; and
(g) provide better technical assistance to an LEA.
(5) The division shall:
(a) maintain the confidentiality of proprietary information submitted by an LEA;
(b) use submitted information only for the purposes described in this section;
(c) aggregate data when publishing reports or benchmarks to protect LEA-specific information where appropriate; and
(d) provide an LEA with access to aggregated data and analysis.
(6) Failure of an LEA to provide requested information without good cause may result in:
(a) loss of certain oversight autonomy, including requirement for division-managed construction services under Section 63A-5b-1213; or
(b) administrative penalties not exceeding $5,000, subject to appeal under Section 63A-5b-1221.
(7) This section applies to:
(a) all LEAs;
(b) projects in process or completed after May 6, 2026; and
(c) both new construction and major renovation projects.

Enacted by Chapter 225, 2026 General Session

63A-5b-1210 Standardized cost reporting.
(1) The division shall implement a standardized cost reporting system that:
(a) requires an LEA to report construction costs using consistent categories and formats;
(b) enables accurate cost comparison between projects and districts;
(c) tracks cost trends and identifies potential cost savings;
(d) provides data for legislative oversight and budget planning; and
(e) contains detailed cost reporting requirements, including:
(i) pre-construction cost estimates using the Construction Specifications Institute MasterFormat categories;
(ii) monthly cost reports during construction with variance explanations;
(iii) change order documentation with justification and approval authority;
(iv) final reconciled costs with cost-per-square-foot analysis;
(v) separate reporting of construction, equipment, and soft costs;
(vi) comparison to division cost benchmarks by building type and region;
(vii) supports for audit and compliance activities; and
(viii) annual deferred maintenance reporting including:
(A) identification of all maintenance items deferred during the reporting period;
(B) estimated costs for each deferred maintenance item;
(C) priority ranking based on safety, functionality, and cost implications;
(D) projected timeline for addressing deferred items; and
(E) cumulative deferred maintenance backlog by facility and system type.
(2)
(a) Notwithstanding the division's tracking of deferred maintenance, the division and the state assume no liability for any deferred maintenance costs or issues arising from deferred maintenance.

(b) The LEA shall retain all liability for deferred maintenance costs and any consequences resulting from deferred maintenance decisions.

(3) The division shall:

(a) analyze cost data to identify trends and outliers;

(b) provide cost guidance to an LEA;

(c) upon request, report to the Legislature on construction cost trends; and

(d) make aggregated cost data available to support planning and budgeting.

(4) The division shall establish and maintain a comprehensive construction cost database that:

(a) is accessible to the State Board of Education and other relevant stakeholders as the division determines;

(b) consolidates historical cost data from all LEA projects completed after January 1, 2025;

(c) provides cost benchmarks updated quarterly;

(d) identifies cost outliers and investigates variances exceeding 15%;

(e) generates annual cost trend reports for legislative review;

(f) supports an LEA budget planning with predictive cost modeling;

(g) tracks deferred maintenance trends across an LEA and facility types;

(h) identifies facilities with excessive deferred maintenance backlogs requiring intervention; and

(i) provides predictive modeling for long-term maintenance and replacement costs.

(5) Beginning July 1, 2029, an LEA shall submit annual deferred maintenance reports to the division that:

(a) identify all maintenance items with estimated costs exceeding $25,000 that were deferred during the fiscal year, limited to items described in Subsections 63A-5b-405(2)(c)(i) and (ii);

(b) provide justification for deferral decisions;

(c) include facility condition assessments updated at least every five years;

(d) demonstrate how deferred maintenance decisions align with long-term capital planning; and

(e) report on progress addressing previously identified deferred maintenance items.

(6) The division shall implement the requirements of this section in phases as follows:

(a) by July 1, 2027:

(i) complete initial cost database framework development;

(ii) begin collecting historical cost data under Section 63A-5b-1209; and

(iii) develop standardized reporting formats;

(b) by July 1, 2028:

(i) establish preliminary cost benchmarks for elementary and secondary schools;

(ii) implement basic cost comparison tools; and

(iii) provide initial training to LEAs on standardized cost reporting;

(c) by July 1, 2029:

(i) complete baseline cost benchmarks for all major building types and regions;

(ii) implement automated cost comparison and analysis tools; and

(iii) establish full compliance requirements for deferred maintenance reporting; and

(d) by July 1, 2030:

(i) achieve full implementation of all cost database and reporting requirements; and

(ii) provide comprehensive training and technical assistance to all LEAs.

(7) Beginning December 1, 2027, the division shall report annually to:

(a) the Education Interim Committee; and

(b) the Transportation and Infrastructure Appropriations Subcommittee.

(8) The annual report shall include:

(a) progress on phased implementation under Subsection (6);

(b) status of cost database development and benchmark establishment;

(c) implementation status of automated cost comparison tools;
(d) training provided to LEAs on standardized cost reporting;
(e) analysis of construction cost trends and outliers;
(f) deferred maintenance trends across an LEA and facility types;
(g) compliance audit results and enforcement actions taken;
(h) construction oversight fee revenue and expenditures; and
(i) recommendations for statutory or policy improvements.

Enacted by Chapter 225, 2026 General Session

63A-5b-1211 Training and technical assistance.

(1) In collaboration with the school construction liaison described in Section 63A-5b-1212, the division shall develop and maintain a school construction resource manual including:
(a) current legal requirements;
(b) construction and inspection rules;
(c) compliance procedures and documentation standards; and
(d) standardized forms and reporting requirements.
(2) The division shall review and update the manual at least every three years or when significant changes in building codes occur.
(3)
(a) In collaboration with the school construction liaison described in Section 63A-5b-1212, the division shall provide annual training for LEA officials covering:
(i) construction oversight responsibilities and procedures;
(ii) building code compliance requirements;
(iii) inspection documentation and verification;
(iv) cost reporting procedures;
(v) use of the online management system described in Section 63A-5b-1207; and
(vi) coordination with local building officials.
(b) The division may not use a third-party vendor or provider to fulfill the requirements of Subsection (3)(a).
(4) The division shall provide additional training for:
(a) design professionals working on school projects;
(b) third-party plan reviewers and inspectors;
(c) construction managers and general contractors; and
(d) building officials involved in school construction as the division determines.
(5) The division shall update trainings regularly to reflect:
(a) changes in building codes and standards;
(b) new construction technologies and methods;
(c) lessons learned from project audits and reviews; and
(d) best practices from other jurisdictions.
(6) The division may:
(a) charge reasonable fees for specialized training programs; and
(b) in accordance with Subsection (3)(b), contract with qualified entities to provide training services.

Enacted by Chapter 225, 2026 General Session

63A-5b-1212 School construction liaison -- Coordination with state board.

(1) The state board shall designate a school construction liaison who:
(a) serves as the primary contact between the state board and the division on school construction matters;
(b) coordinates on educational programming requirements that may affect construction standards;
(c) participates in administrative rule development and review processes;
(d) provides input on educational facility needs and trends;
(e) assists with training programs for LEA officials; and
(f) facilitates resolution of construction-related issues affecting educational programs.
(2) The school construction liaison shall:
(a) be an employee of the state board;
(b) have expertise in school construction, educational facilities, or related fields;
(c) participate in relevant division meetings and committees;
(d) maintain regular communication with division staff; and
(e) report to the state board on construction oversight activities and issues.
(3) The division and state board shall establish a memorandum of understanding that:
(a) defines roles and responsibilities for school construction oversight;
(b) establishes communication protocols and meeting schedules;
(c) addresses coordination on policy development and implementation;
(d) provides for information sharing and joint training activities; and
(e) includes dispute resolution procedures.

Enacted by Chapter 225, 2026 General Session

63A-5b-1213 Division-managed construction services.
(1) The division may provide comprehensive construction management services to an LEA, including:
(a) project procurement and contractor selection;
(b) construction oversight and inspection coordination;
(c) cost management and change order approval;
(d) compliance verification and quality assurance;
(e) project scheduling and milestone management; and
(f) architect and design professional services when required under Section 63A-5b-1204 or requested by an LEA.
(2) An LEA may request division construction management services for:
(a) any project exceeding $3,500,000 in total cost;
(b) complex projects requiring specialized expertise; or
(c) projects where the LEA lacks sufficient internal capacity.
(3) The division shall provide construction management services when:
(a) requested by an LEA and capacity allows; or
(b) an LEA has demonstrated repeated compliance failures.
(4)
(a) The division shall establish a cost structure for managed services where:
(i) the LEA reimburses the division for all direct project costs;
(ii) administrative fees do not exceed:
(A) 3% of total project cost; and
(B) for projects under $3,500,000, the actual cost of providing management services in relation to the specific project; and

(iii) fee schedules are published annually in division rules.
(b) The division shall ensure:
(i) the administrative fee structure for division-managed projects includes the construction oversight fee required by Section 63A-5b-1214; and
(ii) an LEA may not pay duplicative fees.
(c) The division shall provide an LEA with a detailed fee breakdown showing:
(i) additional direct project management costs; and
(ii) the total administrative fee percentage.
(5) The division shall ensure that for division-managed projects:
(a) the division assumes full responsibility for code compliance;
(b) all procurement follows state procurement rules;
(c) the LEA retains authority over educational program requirements; and
(d) regular progress and financial reports are provided to the LEA governing board as defined in Section 53E-1-102.
(6) An LEA may appeal the division's determination to require division-managed construction services to the appeals panel established under Section 63A-5b-1221.

Enacted by Chapter 225, 2026 General Session

63A-5b-1214 Construction oversight fee.
(1) Except for an LEA that has hired a division approved project manager to provide services as described in this section, for all public school construction projects, an LEA shall pay the division a construction oversight, building official, plan review, and administration fee in accordance with a fee schedule established by division rule under Section 63A-5b-1217 and approved by the rate committee created in Section 63A-1-114.
(2) The construction oversight fee:
(a) applies to all projects subject to this part, regardless of whether the division is providing direct construction management services;
(b) shall be established by division rule under Section 63A-5b-1217 to recover the reasonable costs of oversight activities and may be reduced or waived for LEAs with delegated oversight authority; and
(c) may be included in the LEA's bond authorization or other funding mechanism.
(3) The construction oversight fee assessed to an LEA shall fund the division's activities, including:
(a) plan review and permitting;
(b) inspection roster maintenance and oversight;
(c) cost database development and maintenance;
(d) training and technical assistance programs;
(e) compliance monitoring and enforcement;
(f) online document management system operation;
(g) standardized design template development; and
(h) other oversight activities required by this part.
(4) For projects where the division provides direct construction management services under Section 63A-5b-1213:
(a) the LEA shall not pay duplicative fees; and
(b) the division shall clearly delineate the fee structure for oversight activities.
(5) The division shall:
(a) deposit all construction oversight fees into the restricted account established in Section 63A-5b-1219;

(b) use fee revenue exclusively for public school construction oversight activities;
(c) report annually to the Legislature on fee revenue and expenditures; and
(d) adjust the fee rate only through legislative action.
(6) An LEA may appeal fee assessments or payment schedule requirements under this section to the appeals panel established under Section 63A-5b-1221.

Enacted by Chapter 225, 2026 General Session

63A-5b-1215 Enforcement and penalties.
(1) If an LEA fails to comply with requirements established under this part, the division may:
(a) issue written warnings and compliance orders;
(b) suspend or revoke construction permits;
(c) require additional inspections at the LEA's expense;
(d) impose administrative penalties as provided in rule; and
(e) refer matters to appropriate authorities for further action.
(2) The division may not assess administrative penalties that exceed:
(a) $1,000 for minor violations;
(b) $5,000 for significant violations; and
(c) $25,000 for violations that pose safety risks or involve willful noncompliance.
(3) Before imposing penalties, the division shall:
(a) provide written notice of alleged violations;
(b) allow reasonable time for correction;
(c) provide opportunity for a hearing; and
(d) consider the LEA's compliance history and efforts to remedy violations.
(4) Penalty funds collected shall be deposited into the account established in Section 63A-5b-1219.
(5) An LEA may appeal enforcement actions, penalties, or other division decisions under this section to the appeals panel established under Section 63A-5b-1221.
(6) The division shall conduct mandatory compliance audits of:
(a) 10% of all projects annually, selected randomly;
(b) any project exceeding cost benchmarks by more than 20%;
(c) any LEA with previous compliance violations; and
(d) any project with reported safety concerns.
(7) For serious violations involving life safety, the division may:
(a) require immediate work stoppage until corrections are made;
(b) mandate third-party oversight at an LEA's expense;
(c) require remedial training for LEA officials; and
(d) refer matters to the applicable professional licensing board.

Enacted by Chapter 225, 2026 General Session

63A-5b-1216 Qualified contractor pre-qualification registry.
(1) The division shall establish and maintain a pre-qualification registry of contractors and vendors eligible to bid on public school construction projects as an original contractor, as that term is defined in Section 38-1a-102, that:
(a) establishes minimum qualification standards based on experience, financial capacity, and performance history;
(b) standardizes contractor evaluation criteria across all LEAs;

(c) provides performance ratings based on completed projects;
(d) enables volume purchasing agreements for common materials and services; and
(e) facilitates cost comparison across contractors and regions.
(2) To be eligible to bid on public school construction exceeding $500,000, a contractor shall:
(a) register with the division's contractor registry;
(b) meet minimum qualifications established by division rule;
(c) maintain current insurance and licensing requirements;
(d) submit to performance evaluations on completed projects; and
(e) participate in division-sponsored training programs.
(3) The contractor registry:
(a) creates a pool of pre-qualified contractors from which LEAs select through competitive procurement under Title 63G, Chapter 6a, Utah Procurement Code;
(b) does not replace or eliminate competitive bidding requirements;
(c) does not give the division authority to select contractors for specific LEA projects; and
(d) requires LEAs to use standard procurement processes when selecting from registry contractors as provided in Section 63A-5b-1203.
(4) The division may establish preferred contractor programs that:
(a) reward consistent performance with streamlined bidding processes;
(b) provide volume discounts for an LEA using registry contractors;
(c) ensure geographic coverage in rural and urban areas; and
(d) maintain competitive pricing through transparent cost comparisons.
(5) An LEA or contractor may appeal registry determinations, including denial of registration or removal from the registry, to the appeals panel established under Section 63A-5b-1221.
(6) The division shall develop and maintain a directory of specialized trade contractors for specific services that:
(a) includes qualified contractors for specialized trades including:
(i) plumbing contractors;
(ii) heating, ventilation, and air conditioning contractors;
(iii) electrical contractors;
(iv) roofing contractors;
(v) fire protection system contractors; and
(vi) other specialized trades as the division determines;
(b) is organized by trade specialty and geographic region;
(c) includes contractor contact information and areas of expertise;
(d) is updated at least annually;
(e) is accessible through the division's website for LEA use; and
(f) serves as a resource for LEAs seeking contractors for maintenance, repair, or specialized construction services.

Enacted by Chapter 225, 2026 General Session

63A-5b-1217 Delegated oversight authority for qualified LEAs.
(1) Notwithstanding any other provision of this part, the division may delegate oversight authority for school facility planning, design review, and construction plan approval to an LEA that has demonstrated internal capacity in construction management, procurement, and project delivery.
(2) An LEA seeking delegated oversight authority shall submit documentation of qualifications, internal controls, and project management capacity to the division in a form and manner defined by rule.

(3)
(a) An LEA granted delegated oversight authority remains subject to all applicable reporting, audit, and compliance reviews by the division.
(b) The division may revoke delegated authority upon a finding of material non-compliance or substantial risk to health, safety, or fiscal integrity.
(4) If the division grants delegated oversight authority to an LEA under this section, the division shall adjust, reduce, or waive any oversight fee assessed under this part to reflect the scope and level of oversight actually performed by the division.
(5) The division shall establish by rule a schedule for oversight fees that is proportional to the oversight services provided, including reduced or zero fees where oversight is primarily satisfied through audits, reporting, or delegated authority.

Enacted by Chapter 225, 2026 General Session

63A-5b-1218 Construction permitting authority.
(1) The division shall have exclusive authority to issue permits for public school construction projects.
(2) In accordance with Sections 10-9a-305 and 17-27a-305, counties and municipalities may not require separate permits for public school construction but may:
(a) receive notification of projects from the State Board of Education or the division;
(b) through a process the division facilitates, provide input during the division's review process; and
(c) in accordance with this part, coordinate on infrastructure connections and traffic impacts.
(3) The division's permit supersedes any local permitting requirement for public school construction.
(4) Notwithstanding the division's exclusive permitting authority, the division may not override local zoning ordinances or land use regulations except as specifically authorized by statute.
(5) An LEA may appeal permitting decisions under this section to the appeals panel established under Section 63A-5b-1221.

Enacted by Chapter 225, 2026 General Session

63A-5b-1219 Public School Construction Oversight Restricted Account.
(1)
(a) There is created within the General Fund a restricted account known as the "Public School Construction Oversight Restricted Account."
(b) The account shall be funded by:
(i) construction oversight fees collected under Section 63A-5b-1214;
(ii) administrative fees collected for division-managed construction services under Section 63A-5b-1213; and
(iii) any penalties collected under Section 63A-5b-1215.
(c) Money in the account:
(i) shall be used exclusively for public school construction oversight activities described in this part;
(ii) may not be used for other division operations unrelated to public school construction oversight;
(iii) does not lapse at the end of a fiscal year; and
(iv) shall earn interest, which shall be deposited into the account.

(2) The Legislature may appropriate money from the account to the division for implementation of this part, including:
(a) plan review and permitting activities;
(b) inspection roster maintenance and oversight;
(c) cost database development and maintenance;
(d) training and technical assistance programs;
(e) compliance monitoring and enforcement;
(f) online document management system operation;
(g) standardized design template development;
(h) staffing costs directly related to public school construction oversight;
(i) contracted services necessary for oversight activities; and
(j) other oversight activities this part requires.
(3) The division shall:
(a) maintain separate accounting for revenue and expenditures from the account;
(b) upon request, report to the Legislature on:
(i) total fee revenue collected;
(ii) account balance;
(iii) expenditures by category; and
(iv) projected future revenue and expenses; and
(c) ensure that fee rates are sufficient to fund oversight activities without requiring additional appropriations.

Enacted by Chapter 225, 2026 General Session

63A-5b-1220 Qualified inspector and plan reviewer roster.
(1) The division shall establish and maintain a unified roster of qualified inspectors and plan reviewers for public school construction.
(2) To be included on the roster, an inspector or plan reviewer shall:
(a) meet International Code Council certification requirements for discipline, including:
(i) for plan reviewers:
(A) International Code Council commercial building plans examination (B3); or
(B) structural peer review certification for educational facilities; or
(ii) for inspectors, International Code Council certification appropriate for inspection discipline;
(b) be licensed by the state as a building inspector or professional engineer as applicable;
(c) complete division-approved training on school construction requirements; and
(d) maintain current certifications and continuing education.
(3) An LEA may only use inspectors and plan reviewers from the division's approved roster.
(4) An inspector, plan reviewer, or building code official meeting the requirements of Subsection (2) may be an employee of the LEA and included on the division roster.
(5) The division may remove individuals from the approved roster for:
(a) failure to maintain required certifications;
(b) documented compliance failures; or
(c) failure to complete required training updates.
(6) The division shall:
(a) publish the roster on the division's website;
(b) update the roster quarterly; and
(c) provide geographic distribution information to assist LEAs in selecting qualified professionals.

Enacted by Chapter 225, 2026 General Session

63A-5b-1221 Appeals panel -- Composition -- Procedures.

(1) There is created an appeals panel to resolve disputes between an LEA and the division regarding decisions made under this part.

(2) The appeals panel shall consist of three members:

(a) the executive director of the Department of Government Operations, or the executive director's designee, who shall serve as the panel chair;

(b) the school construction liaison designated under Section 63A-5b-1212; and

(c) a third member with relevant expertise selected jointly by the members described in Subsections (2)(a) and (b).

(3) The third panel member described in Subsection (2)(c):

(a) shall be selected based on expertise relevant to the specific matter under appeal, which may include:

(i) construction management;

(ii) architectural or engineering services;

(iii) building code compliance;

(iv) cost estimation and project budgeting;

(v) procurement and contracting; or

(vi) educational facility planning;

(b) may not be an employee of the LEA filing the appeal or of the division;

(c) may not have a financial interest in the outcome of the appeal; and

(d) shall be selected within 10 business days of the appeal being filed.

(4) An LEA may appeal the following division decisions to the appeals panel:

(a) denial or conditional approval of construction permits under Section 63A-5b-1218;

(b) denial of alternative delivery method requests under Section 63A-5b-1203;

(c) cost matrix determinations under Subsection 63A-5b-1205(6);

(d) architect and design professional fee determinations under Section 63A-5b-1204;

(e) enforcement actions and penalties under Section 63A-5b-1215;

(f) requirements for division-managed construction services under Subsection 63A-5b-1213(3);

(g) contractor registry determinations under Section 63A-5b-1216;

(h) denial of standardized design prototype modifications under Subsection 63A-5b-1204(7);

(i) plan review determinations under Section 63A-5b-1205;

(j) inspection and occupancy certificate determinations under Section 63A-5b-1208; and

(k) any other division decision that substantively affects an LEA's ability to complete a construction project in compliance with this part.

(5) To file an appeal, an LEA shall:

(a) submit a written notice of appeal to the division and the executive director of the Department of Government Operations within 30 days of receiving the division's written decision; and

(b) include in the notice:

(i) a description of the division's decision being appealed;

(ii) the specific grounds for the appeal;

(iii) all relevant documentation supporting the LEA's position;

(iv) the relief requested; and

(v) whether the LEA requests an expedited review due to project timeline constraints.

(6) Upon receiving a notice of appeal:

(a) the division shall provide the division's written response within 15 business days, including:

(i) the basis for the challenged decision;

(ii) all documentation supporting the division's position; and
(iii) any proposed resolution;
(b) the appeals panel shall convene within 30 days of receiving the division's response, or within 15 days if expedited review is requested and granted;
(c) the panel shall provide both parties opportunity to present evidence and argument; and
(d) the panel may request additional information from either party or from independent experts.
(7) The appeals panel shall:
(a) conduct proceedings in accordance with Title 63G, Chapter 4, Administrative Procedures Act, to the extent applicable;
(b) issue a written decision within:
(i) 45 days of the initial appeal filing for standard reviews; or
(ii) 20 days of the initial appeal filing for expedited reviews;
(c) include in the written decision:
(i) findings of fact;
(ii) conclusions regarding compliance with applicable statutes and rules;
(iii) the rationale for the decision; and
(iv) any conditions or requirements for implementation;
(d) provide the decision to the LEA, the division, and the state board; and
(e) publish anonymized summaries of decisions to provide guidance for future cases.
(8) The appeals panel may:
(a) affirm the division's decision;
(b) reverse the division's decision and direct specific action;
(c) modify the division's decision with conditions;
(d) remand the matter to the division for further consideration with specific direction; or
(e) extend timelines for good cause shown by either party.
(9) The appeals panel's decision:
(a) is final and binding on both the LEA and the division;
(b) may only be challenged through judicial review under Section 63G-4-401; and
(c) does not prevent either party from seeking emergency relief through the courts if immediate and irreparable harm would result from delay.
(10) During the pendency of an appeal:
(a) the division may not take additional enforcement action related to the subject of the appeal unless necessary to address imminent safety concerns;
(b) construction timelines and permit expiration dates shall be tolled;
(c) the LEA may proceed with construction if the division grants a stay pending appeal; and
(d) the panel may issue interim orders to preserve the status quo or prevent irreparable harm.
(11) For appeals involving highly technical or specialized issues:
(a) the panel may retain independent experts to provide technical analysis;
(b) costs of expert review shall be shared equally by the LEA and the division unless the panel determines otherwise based on the outcome; and
(c) expert reports shall be provided to both parties for review and response before the panel issues the panel's decision.

Enacted by Chapter 225, 2026 General Session

63A-5b-1222 Implementation and transition.
(1) Before January 1, 2027, the division shall:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adopt comprehensive rules implementing this part;
(b) establish the online document management system described in Section 63A-5b-1207;
(c) develop standardized forms and procedures;
(d) create training programs for LEA officials; and
(e) coordinate with the State Board of Education to:
(i) repeal or substantially revise State Board of Education administrative rules related to school construction; and
(ii) ensure that remaining State Board of Education rules defer to division authority established under this part.
(2) All projects beginning construction after January 1, 2027, shall comply fully with this part.
(3) The division shall conduct remedial audits of projects completed in 2024, 2025, and 2026 to identify systemic issues requiring immediate attention.

Enacted by Chapter 225, 2026 General Session

Chapter 9
Division of Fleet Operations and Administration of State Motor Vehicles

Part 1
General Provisions

63A-9-101 Definitions.

As used in this part:
(1)
(a) "Agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.
(b) "Agency" includes the State Board of Education and each higher education institution listed in Section 53H-1-102.
(c) "Agency" includes the legislative and judicial branches.
(2) "Committee" means the Motor Vehicle Review Committee created by this chapter.
(3) "Director" means the director of the division.
(4) "Division" means the Division of Fleet Operations created by this chapter.
(5) "Executive director" means the executive director of the Department of Government Operations.
(6) "Local agency" means:
(a) a county;
(b) a municipality;
(c) a school district;
(d) a special district;
(e) a special service district;
(f) an interlocal entity as defined under Section 11-13-103; or

(g) any other political subdivision of the state, including a local commission, board, or other governmental entity that is vested with the authority to make decisions regarding the public's business.

(7)
(a) "Motor vehicle" means a self-propelled vehicle capable of carrying passengers.
(b) "Motor vehicle" includes vehicles used for construction and other nontransportation purposes.

(8) "State vehicle" means each motor vehicle owned, operated, or in the possession of an agency.

Amended by Chapter 9, 2025 Special Session 1

Part 2
Division of Fleet Operations

63A-9-201 Creation.

(1) There is created the Division of Fleet Operations within the department.

(2) The division of fleet operations is an internal service fund agency and its financial affairs shall be accounted for as an internal service fund.

Amended by Chapter 344, 2021 General Session

63A-9-202 Director of division -- Appointment.

The executive director of the department shall appoint the director of the Division of Fleet Operations with the approval of the governor.

Enacted by Chapter 334, 1996 General Session

63A-9-203 Director -- Duties.

The director shall establish and administer the division.

Enacted by Chapter 334, 1996 General Session

Part 4
Division Duties

63A-9-401 Division -- Duties.

(1) The division shall:
(a) perform all administrative duties and functions related to management of state vehicles;
(b) coordinate all purchases of state vehicles;
(c) establish one or more fleet automation and information systems for state vehicles;
(d) make rules establishing requirements for:
(i) maintenance operations for state vehicles;
(ii) use requirements for state vehicles;
(iii) fleet safety and loss prevention programs;
(iv) preventative maintenance programs;
(v) procurement of state vehicles, including:

(A) vehicle standards;
(B) alternative fuel vehicle requirements;
(C) short-term lease programs;
(D) equipment installation; and
(E) warranty recovery programs;
(vi) fuel management programs;
(vii) cost management programs;
(viii) business and personal use practices, including commute standards;
(ix) cost recovery and billing procedures;
(x) disposal of state vehicles;
(xi) reassignment of state vehicles and reallocation of vehicles throughout the fleet;
(xii) standard use and rate structures for state vehicles; and
(xiii) insurance and risk management requirements;
(e) establish a parts inventory;
(f) create and administer a fuel dispensing services program that meets the requirements of Subsection (2);
(g) emphasize customer service when dealing with agencies and agency employees;
(h) conduct an annual audit of all state vehicles for compliance with division requirements;
(i) before charging a rate, fee, or other amount to an executive branch agency, or to a subscriber of services other than an executive branch agency:
(i) submit the proposed rates, fees, and cost analysis to the Rate Committee established in Section 63A-1-114; and
(ii) obtain the approval of the Legislature as required by Section 63J-1-410 or 63J-1-504; and
(j) conduct an annual market analysis of proposed rates and fees, which analysis shall include a comparison of the division's rates and fees with the fees of other public or private sector providers where comparable services and rates are reasonably available.
(2) The division shall operate a fuel dispensing services program in a manner that:
(a) reduces the risk of environmental damage and subsequent liability for leaks involving state-owned underground storage tanks;
(b) eliminates fuel site duplication and reduces overall costs associated with fuel dispensing;
(c) provides efficient fuel management and efficient and accurate accounting of fuel-related expenses;
(d) where practicable, privatizes portions of the state's fuel dispensing system;
(e) provides central planning for fuel contingencies;
(f) establishes fuel dispensing sites that meet geographical distribution needs and that reflect usage patterns;
(g) where practicable, uses alternative sources of energy; and
(h) provides safe, accessible fuel supplies in an emergency.
(3) The division shall:
(a) ensure that the state and each of the state's agencies comply with state and federal law and state and federal rules and regulations governing underground storage tanks;
(b) coordinate the installation of new state-owned underground storage tanks and the upgrading or retrofitting of existing underground storage tanks;
(c) by no later than June 30, 2025, ensure that an underground storage tank qualifies for a rebate, provided under Subsection 19-6-410.5(5)(d), of a portion of the environmental assurance fee described in Subsection 19-6-410.5(4), if the underground storage tank is owned by:
(i) the state;

(ii) a state agency; or
(iii) a county, municipality, school district, special district, special service district, or federal agency that has subscribed to the fuel dispensing service provided by the division under Subsection (6)(b); and
(d) ensure that counties, municipalities, school districts, special districts, and special service districts subscribing to services provided by the division sign a contract that:
(i) establishes the duties and responsibilities of the parties;
(ii) establishes the cost for the services; and
(iii) defines the liability of the parties.
(4) In fulfilling the requirements of Subsection (3)(c), the division may give priority to underground storage tanks owned by the state or a state agency under Subsections (3)(c)(i) and (ii).
(5)
(a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director of the Division of Fleet Operations:
(i) may make rules governing fuel dispensing; and
(ii) shall make rules establishing standards and procedures for purchasing the most economically appropriate size and type of vehicle for the purposes and driving conditions for which the vehicle will be used, including procedures for granting exceptions to the standards by the executive director of the Department of Government Operations.
(b) Rules made under Subsection (5)(a)(ii):
(i) shall designate a standard vehicle size and type that shall be designated as the statewide standard vehicle for fleet expansion and vehicle replacement;
(ii) may designate different standard vehicle size and types based on defined categories of vehicle use;
(iii) may, when determining a standard vehicle size and type for a specific category of vehicle use, consider the following factors affecting the vehicle class:
(A) size requirements;
(B) economic savings;
(C) fuel efficiency;
(D) driving and use requirements;
(E) safety;
(F) maintenance requirements;
(G) resale value; and
(H) the requirements of Section 63A-9-403; and
(iv) shall require agencies that request a vehicle size and type that is different from the standard vehicle size and type to:
(A) submit a written request for a nonstandard vehicle to the division that contains the following:
(I) the make and model of the vehicle requested, including acceptable alternate vehicle makes and models as applicable;
(II) the reasons justifying the need for a nonstandard vehicle size or type;
(III) the date of the request; and
(IV) the name and signature of the person making the request; and
(B) obtain the division's written approval for the nonstandard vehicle.
(6)
(a)
(i) A state agency and a higher education institution shall subscribe to the fuel dispensing services provided by the division.

(ii) A state agency may not provide or subscribe to any other fuel dispensing services, systems, or products other than those provided by the division.

(b) Counties, municipalities, school districts, special districts, special service districts, and federal agencies may subscribe to the fuel dispensing services provided by the division if:

(i) the county or municipal legislative body, the school district, or the special district or special service district board recommends that the county, municipality, school district, special district, or special service district subscribe to the fuel dispensing services of the division; and

(ii) the division approves participation in the program by that government unit.

(7) The director, with the approval of the executive director, may delegate functions to institutions of higher education, by contract or other means authorized by law, if:

(a) the agency or institution of higher education has requested the authority;

(b) in the judgment of the director, the state agency or institution has the necessary resources and skills to perform the delegated responsibilities; and

(c) the delegation of authority is in the best interest of the state and the function delegated is accomplished according to provisions contained in law or rule.

Amended by Chapter 492, 2026 General Session

63A-9-401.5 Vehicle fleet cost efficiency plans -- Requirements -- Contents -- Submission by agencies.

(1) The division shall develop and coordinate the implementation of a statewide vehicle fleet cost efficiency plan to ensure continuing progress toward statewide overall cost reduction in government vehicle costs. The plan shall include:

(a) goals for vehicle fleet cost efficiency;

(b) a summary of agency submitted plans, statistics, and progress;

(c) standard measures of cost including:

(i) vehicle cost per mile;

(ii) total vehicles;

(iii) total fuel used; and

(iv) miles per gallon of fuel;

(d) goals for purchasing the most economically appropriate size and type of vehicle for the purposes and driving conditions for which the vehicle will be used;

(e) cost reduction measures which may include:

(i) reducing vehicle engine idle time;

(ii) driving fewer miles;

(iii) using car pools when possible;

(iv) avoiding rush hour traffic;

(v) reducing aggressive driving;

(vi) providing proper preventative maintenance including properly inflated tires; and

(vii) purchasing from state fuel sites and using the lowest octane fuel needed for the altitude;

(f) reducing inventories of underutilized vehicles; and

(g) education to inform drivers of their accountability on implementing cost reduction measures.

(2) The division shall assist agencies to develop and implement their own plans in accordance with this part.

(3) Each agency that owns or leases vehicles shall develop, implement, and submit to the division under Section 63A-9-402, a vehicle fleet cost efficiency plan for their agency in accordance with

the provisions under Subsection (1). The plan shall include agency goals and statistics, and a report of agency progress.

Enacted by Chapter 106, 2007 General Session

63A-9-402 State-owned vehicle report -- Contents.

(1) On or before October 1 of each year, each agency that owns or leases vehicles shall submit a report to the division that contains at least the following information:
  (a) a description of each vehicle owned or leased by that agency, including the license number, year, make, and model of the vehicle;
  (b) the person and administrative unit within the agency to whom each vehicle is assigned; and
  (c) a vehicle fleet cost efficiency plan in accordance with the provisions of Section 63A-9-401.5.
(2)
  (a) On or before November 1 of each calendar year, the director of the division shall submit a state-owned vehicle report to the governor and to the legislative fiscal analyst.
  (b) The report shall contain a summary of vehicles owned or leased by each state agency including:
    (i) a description of each vehicle owned or leased by each agency;
    (ii) the person or administrative unit within the agency to whom each vehicle is assigned; and
    (iii) standard measures of cost for the previous year, for each vehicle, including:
      (A) vehicle cost per mile;
      (B) total vehicles;
      (C) total fuel used; and
      (D) miles per gallon of fuel.
(3) The legislative fiscal analyst shall submit the information from the state-owned vehicle report about each agency's state-owned vehicles to the legislative appropriation subcommittee that has jurisdiction over that agency.
(4)
  (a) Vehicles used in official investigative work where secrecy is essential are exempt from the requirements of this section.
  (b) The report to the governor and legislative fiscal analyst shall include the total number of state vehicles used in official investigative work where secrecy is essential that are not otherwise accounted for in the report.

Amended by Chapter 106, 2007 General Session

63A-9-403 Clean emissions vehicles -- Alternative fuel vehicles.

No later than August 30, 2018, the division shall ensure that 50% or more of new or replacement division-owned state vehicles that are motor vehicles used for the transportation of passengers are motor vehicles with emissions that are equal to or cleaner than the standards established in bin 2 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6), or any vehicle propelled to a significant extent using one of the following alternative fuels:
(1) electricity from an off-board source;
(2) natural gas;
(3) liquid petroleum gas;
(4) hydrogen; or
(5) biodiesel.

Enacted by Chapter 190, 2014 General Session

Part 5
Misuse of Vehicles

63A-9-501 Complaints about misuse or illegal operation of state vehicles -- Disposition.

(1) The division shall refer complaints from the public about misuse or illegal operation of state vehicles to the agency that is the owner or lessor of the vehicle.

(2) Each agency head or the agency head's designee shall investigate all complaints about misuse or illegal operation of state vehicles and shall discipline each employee that is found to have misused or illegally operated a vehicle by following the procedures described in the rules made by the Division of Human Resource Management, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as authorized by Section 63A-17-306.

(3)

(a) Each agency shall report the findings of each investigation conducted as well as any action taken as a result of the investigation to the directors of the Divisions of Fleet Operations and Risk Management.

(b) Misuse or illegal operation of state vehicles may result in suspension or revocation of state vehicle driving privileges as governed in rule.

Amended by Chapter 169, 2022 General Session

Part 6
Marking of Vehicles

63A-9-601 Marking of vehicles.

(1)

(a) Except as provided in Subsection (5), all motor vehicles owned, leased for use, or operated by the state shall display an identification mark and "EX" plates where required by Section 41-1a-407.

(b) The division is responsible for ensuring that vehicles owned or leased by the state are marked.

(c) The division shall enact rules relating to the size and design of the identification mark.

(2) The identification mark shall be clear, distinct, and kept free from defacement, mutilation, grease, and other obscuring matter so that it is plainly visible at all times.

(3) Each person operating a state vehicle without the proper designation is guilty of an infraction.

(4) Vehicles used in official investigative work where secrecy is essential are exempt from the requirements of this section.

(5) Notwithstanding Subsection (1), the division may grant security exemptions to the identification mark and "EX" plate requirement when the division:

(a) receives a request for an exemption; and

(b) determines there is a substantial danger to the person to whom the vehicle is assigned if the vehicle is identified as a state vehicle.

Enacted by Chapter 334, 1996 General Session

Part 7
Use of Division Services

63A-9-701 Subscription to motor pool by certain local government entities.

(1) The following local government entities may subscribe to the central motor pool service provided by the division subject to the conditions established in Subsection (2):
  (a) local health departments as defined in Title 26A, Chapter 1, Part 1, Local Health Department Act;
  (b) local substance abuse authorities as defined in Section 17-77-201;
  (c) local area agencies, as authorized by Section 26B-6-104, or their subcontractors who are local governmental or public entities; and
  (d) local mental health authorities as defined in Section 17-77-301.
(2) The local government entities outlined in Subsection (1) may subscribe to the central motor pool service provided by the division only if:
  (a) the director of the local government entity determines it will result in substantial cost savings or increased efficiency to the local government entity; and
  (b) the central motor pool has sufficient vehicles available.

Amended by Chapter 17, 2025 Special Session 1

63A-9-702 Authority of public to purchase natural gas from the state fuel network -- Rulemaking authority.

(1) As used in this section, "private individual or entity" means any individual or entity that:
  (a) is not acting under the authority of a federal, state, or local government agency; and
  (b) is not purchasing compressed natural gas from the state's fuel network for sale, resale, distribution, redistribution, trade, exchange, or in furtherance of a commercial enterprise.
(2) The division may allow a private individual or entity to purchase compressed natural gas from the state's fuel network if:
  (a) there is no commercial fuel site that meets the geographical compressed natural gas distribution needs of private individuals or entities; and
  (b) there is no emergency that, as determined by the division, warrants the holding of compressed natural gas in reserve for use by state or emergency vehicles.
(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules:
  (a) giving state and local agencies priority to dispense and receive compressed natural gas from the state's fuel network sites;
  (b) designating state fuel network sites that may be made available to private individuals and entities for the purchase of compressed natural gas;
  (c) defining the terms of operation for each site designated under Subsection (3)(b);
  (d) unless otherwise prohibited by law, limiting the amount of compressed natural gas that may be purchased from the state's fuel network by any private individual or entity at any one time, or in the aggregate during any given period of time;
  (e) providing conditions upon which a private individual or entity's authorization to purchase compressed natural gas from the state fuel network may be granted, revoked, or suspended under this section;

(f) to establish or determine compliance with Subsections (2)(a) and (b); and
(g) defining the term "geographical compressed natural gas needs of a private individual or entity."

Enacted by Chapter 65, 2008 General Session

Chapter 12
Division of Archives and Records Service and Management of Government Records

Part 1
General Provisions

63A-12-100.5 Definitions.
(1) Except as provided under Subsection (2), the definitions in Section 63G-2-103 apply to this chapter.
(2) As used in this chapter:
(a) "Chief administrative officer" means the individual designated by a governmental entity to perform the duties described in Section 63A-12-103.
(b) "Division" means the Division of Archives and Records Service.
(c) "Record" means:
(i) the same as that term is defined in Section 63G-2-103; or
(ii) a video or audio recording of an interview, or a transcript of the video or audio recording, that is conducted at a Children's Justice Center established under Section 67-5b-102, the release of which is governed by Section 77-37-4.
(d) "Records officer" means an individual appointed by the chief administrative officer whose primary responsibility is to care, maintain, use, schedule, dispose, classify, designate, manage access to, and preserve records in accordance with applicable laws.
(e) "State archives" means the Division of Archives and Records Service.
(f) "Vulnerable adult" means the same as that term is defined in Section 26B-6-201.
(g) "Vulnerable record" means a record or data relating to:
(i) national security interests;
(ii) the care, custody, or control of a child;
(iii) a fiduciary trust over money;
(iv) health care of a child; or
(v) the following, in relation to a vulnerable adult:
(A) protection, health care, or other care; or
(B) the provision of food, shelter, clothing, assistance with an activity of daily living, or assistance with financial resource management.

Amended by Chapter 475, 2025 General Session

63A-12-101 Division of Archives and Records Service created -- Duties.
(1) There is created the Division of Archives and Records Service within the department.
(2) The state archives shall:

(a) administer the state's archives and records management programs, including storage of records, central reformatting programs, and quality control;
(b) apply fair, efficient, and economical management methods to the collection, creation, use, maintenance, retention, preservation, disclosure, and disposal of records and documents;
(c) establish standards, procedures, and techniques for the effective management and physical care of records;
(d) conduct surveys of office operations and recommend improvements in current records management practices, including the use of space, equipment, automation, and supplies used in creating, maintaining, storing, and servicing records;
(e) establish standards for the preparation of schedules providing for the retention of records of continuing value and for the prompt and orderly disposal of state records no longer possessing sufficient administrative, historical, legal, or fiscal value to warrant further retention;
(f) establish, maintain, and operate centralized reformatting lab facilities and quality control for the state;
(g) provide staff and support services to the Records Management Committee created in Section 63A-12-112 and the Government Records Office, created in Section 63A-12-202;
(h) develop training programs to assist records officers and other interested officers and employees of governmental entities to administer this chapter and Title 63G, Chapter 2, Government Records Access and Management Act;
(i) provide access to public records deposited in the archives;
(j) administer and maintain the Utah Public Notice Website established under Section 63A-16-601;
(k) provide assistance to any governmental entity in administering this chapter and Title 63G, Chapter 2, Government Records Access and Management Act;
(l) prepare forms for use by all governmental entities for a person requesting access to a record;
(m) if the department operates the Division of Archives and Records Service as an internal service fund agency in accordance with Section 63A-1-109.5, submit to the Rate Committee established in Section 63A-1-114:
(i) the proposed rate schedule as required by Section 63A-1-114; and
(ii) other information or analysis requested by the Rate Committee; and
(n) establish standards for digital authentication systems and review county proposals for accepting digitally authenticated records in accordance with Section 17-71-301.5.

(3) The state archives may:
(a) establish a report and directives management program;
(b) establish a forms management program; and
(c) in accordance with Section 63A-12-101, require that an individual undergo a background check if the individual:
(i) applies to be, or currently is, an employee or volunteer of the division; and
(ii) will have direct access to a vulnerable record in the capacity described in Subsection (3)(c)(i).

(4) The executive director may direct the state archives to administer other functions or services consistent with this chapter and Title 63G, Chapter 2, Government Records Access and Management Act.

Amended by Chapter 187, 2026 General Session

63A-12-102 State archivist -- Duties.

(1)
(a) With the approval of the governor, the executive director shall appoint the state archivist to serve as director of the state archives.
(b) The state archivist shall be qualified by archival training, education, and experience.
(2) The state archivist is charged with:
(a) the custody and permanent retention and preservation of:
(i) the enrolled copy of the original 1895 Utah Constitution;
(ii) Indian war records;
(iii) oaths of office of all state officials, including legislative officials, required under Article IV, Section 10 of the Utah Constitution to take an oath of office;
(iv) all other records, excluding legislative records described in Section 63A-12-102.5, kept by or deposited with the state archivist for permanent preservation as provided by law; and
(b) the retention and preservation of legislative records, as provided in Section 63A-12-102.5.
(3)
(a) The state archivist is the official custodian of all noncurrent records of permanent or historic value that are not required by law to remain in the custody of the originating governmental entity.
(b) Upon the termination of any governmental entity, its records shall be transferred to the state archives.

Amended by Chapter 291, 2023 General Session

63A-12-102.5 Preservation of legislative records.
(1) As used in this section:
(a) "Historical legislative record" means a permanent legislative record or a supplemental legislative record that a legislative office transmitted to the state archivist before March 3, 2023, for retention and preservation.
(b) "Legislative office" means:
(i) the Senate, the House of Representatives, or a staff office of the Legislature; or
(ii) as applicable, a body designated by the Legislative Management Committee to be responsible for:
(A) the retention of a legislative record; or
(B) the transmission of a legislative record to the division, as provided in this section, if the body chooses to transmit the legislative record to the division.
(c) "Legislative retention schedule" means the retention schedule attached as Appendix A to the Legislative Management Committee Policy L. Legislative Records.
(d) "Permanent legislative record" means:
(i) a joint proclamation issued by the president of the Senate and the speaker of the House of Representatives convening a session of the Legislature under Article VI, Section 2 of the Utah Constitution;
(ii) a session journal of the Senate or House of Representatives;
(iii) a recording of Senate or House of Representatives floor proceedings;
(iv) a numbered bill or resolution of the Senate or House of Representatives, including:
(A) a public substitute or amendment;
(B) a fiscal note or other information required to accompany a numbered bill or resolution; and
(C) an enrolled bill or resolution;
(v) an introduced article of impeachment or amendment to an article of impeachment;

(vi) as prepared by the Legislature and provided to the public, a list of actions taken on legislation during a legislative session or descriptions of the status of legislation considered during a legislative session;

(vii) a notice, agenda, handout or other public meeting material, recording, or minutes of the Legislative Management Committee, Executive Appropriations Committee, standing and interim committees of the Legislature, appropriations subcommittees of the Legislature, audit subcommittees of the Legislature, and other legislative committees, task forces, or commissions, excluding a rules or sifting committee of the Legislature;

(viii) a statutorily required budget or appropriations report;

(ix) an audit or review report of the Office of the Legislative Auditor General and a record that supports the conclusions and findings of the audit or review report;

(x) a version of the Utah Code after the Office of Legislative Research and General Counsel prepares an updated Utah Code database incorporating any duly enacted legislation making changes to the Utah Code;

(xi) the Laws of Utah;

(xii) a biennial version of the Utah Constitution after the Office of Legislative Research and General Counsel incorporates into the Utah Constitution amendments that passed during the preceding regular general election; or

(xiii) a notice of appeal under Section 63G-9-401 relating to a decision of the board of examiners and a record accompanying a notice of appeal.

(e) "Supplemental legislative record" means a legislative record that is not a permanent legislative record.

(2) A legislative office may, but is not required to, transmit a legislative record to the state archivist for retention and preservation as provided in this section.

(3)

(a) A legislative office shall consult with the state archivist as the legislative office determines the method and timing of transmitting a legislative record that the legislative office chooses to transmit to the state archivist for the state archivist's retention and preservation as provided in this section.

(b) The transmission of a digital copy of a legislative record is sufficient for purposes of the transmission of the legislative record to the state archivist.

(4)

(a) A legislative record that a legislative office transmits to the state archivist for retention and preservation remains in the control and legal custody of the legislative office and, although retained and preserved by the state archivist, does not become subject to the control or legal custody of the state archivist.

(b) The state archivist shall allow a legislative office full and continuing access to any legislative record transmitted to the state archivist for retention and preservation under this section.

(5)

(a) The state archivist may not disclose a supplemental legislative record without the prior written consent of the legislative office that transmitted the supplemental legislative record to the state archivist.

(b) If the state archivist receives a subpoena or other request for a supplemental legislative record, the state archivist shall immediately provide written notice of the subpoena or other request to:

(i) the legislative office that transmitted the supplemental legislative record to the state archivist; and

(ii) legislative general counsel.

(6) The state archivist shall:
(a) permanently retain and preserve a historical legislative record;
(b) permanently retain and preserve a permanent legislative record that a legislative office chooses to transmit to the state archivist after March 3, 2023; and
(c) retain and preserve, according to the legislative retention schedule, a supplemental legislative record that a legislative office chooses to transmit to the state archivist for retention and preservation after March 3, 2023.

Enacted by Chapter 291, 2023 General Session

63A-12-103 Duties of governmental entities.

Each governmental entity shall designate a chief administrative officer who shall be responsible to:
(1) establish and maintain an active, continuing program for the economical and efficient management of the governmental entity's records as provided by this chapter and Title 63G, Chapter 2, Government Records Access and Management Act;
(2) appoint one or more records officers who will be trained to work with the state archives in the care, maintenance, scheduling, disposal, classification, designation, access, and preservation of records;
(3) ensure that officers and employees of the governmental entity that receive or process records requests receive required training on the procedures and requirements of this chapter and Title 63G, Chapter 2, Government Records Access and Management Act;
(4) make and maintain adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the governmental entity designed to furnish information to protect the privacy, transparency, legal, and financial rights of persons directly affected by the entity's activities;
(5) submit to the state archivist proposed schedules of records for final approval by the Records Management Committee created in Section 63A-12-112;
(6) cooperate with the state archivist in conducting surveys made by the state archivist;
(7) comply with rules issued by the Department of Government Operations as provided by Section 63A-12-104;
(8) report to the state archives:
(a) the designation of each record series that the governmental entity maintains;
(b) the classification of each record series that the governmental entity has classified; and
(c) the name of the governmental entity's:
(i) chief administrative officer; and
(ii) records officers;
(9) ensure that the governmental entity complies with the requirements found in:
(a) this part;
(b) Title 63G, Chapter 2, Government Records Access and Management Act; and
(c) Chapter 19, Part 4, Duties of Governmental Entities; and
(10) establish and report to the state archives retention schedules for objects that the governmental entity determines are not defined as a record under Section 63G-2-103, but that have historical or evidentiary value.

Amended by Chapter 475, 2025 General Session

63A-12-104 Rulemaking authority.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
(1) the state archivist may make rules establishing:
(a) procedures for the collection, storage, designation, classification, access, mediation for records access, and management of records under this chapter and Title 63G, Chapter 2, Government Records Access and Management Act; and
(b) procedures and standards for digital authentication systems and preservation of digitally authenticated records in accordance with Section 63A-12-117; and
(2) a governmental entity may make rules, policies, or ordinances specifying at which level within the governmental entity the requirements described in this chapter will be undertaken.

Amended by Chapter 187, 2026 General Session

63A-12-105 Records are property of the state -- Disposition -- Penalties for intentional mutilation or destruction.
(1) All records created or maintained by a state governmental entity are the property of the state and shall not be mutilated, destroyed, or otherwise damaged or disposed of, in whole or part, except as provided in this chapter and Title 63G, Chapter 2, Government Records Access and Management Act.
(2)
(a) Except as provided in Subsection (2)(b), all records created or maintained by a political subdivision of the state are the property of the state and shall not be mutilated, destroyed, or otherwise damaged or disposed of, in whole or in part, except as provided in this chapter and Title 63G, Chapter 2, Government Records Access and Management Act.
(b) Records which constitute a valuable intellectual property shall be the property of the political subdivision.
(c) The state archives may, upon request from a political subdivision, take custody of any record series of the political subdivision. A political subdivision which no longer wishes to maintain custody of a record which must be retained under the political subdivision's retention schedule or the state archive's retention schedule shall transfer it to the state archives for safekeeping and management.
(3)
(a) It is unlawful for a person to intentionally mutilate, destroy, or to otherwise damage or dispose of the record copy of a record knowing that the mutilation, destruction, damage, or disposal is in contravention of:
(i) a governmental entity's properly adopted retention schedule; or
(ii) if no retention schedule has been properly adopted by the governmental entity, the model retention schedule, as provided in Section 63G-2-604.
(b) Violation of this Subsection (3) is a class B misdemeanor.
(c) An employee of a governmental entity that violates this Subsection (3) may be subject to disciplinary action as provided under Section 63G-2-804.

Amended by Chapter 44, 2009 General Session

63A-12-106 Certified and microphotographed copies.
(1)
(a) Upon demand, the state archives shall furnish certified copies of a record in the state archives's exclusive custody that is classified public or that is otherwise determined to

be public under this chapter by the originating governmental entity, the director of the Government Records Office, created in Section 63A-12-202, or a court of law.

(b) When certified by the state archivist under the seal of the state archives, a copy has the same legal force and effect as if certified by the originating governmental entity.

(2) The state archives may microphotograph records when the state archives determines that microphotography is an efficient and economical way to care, maintain, and preserve the record. A transcript, exemplification, or certified copy of a microphotograph has the same legal force and effect as the original. Upon review and approval of the microphotographed film by the state archivist, the source documents may be destroyed.

(3) The state archives may allow another governmental entity to microphotograph records in accordance with standards set by the state archives.

Amended by Chapter 476, 2025 General Session

63A-12-107 Right to replevin.

To secure the safety and preservation of records, the state archivist or the state archivist's representative may examine all records. On behalf of the state archivist, the attorney general may replevin any records that are not adequately safeguarded.

Renumbered and Amended by Chapter 382, 2008 General Session

63A-12-108 Inspection and summary of record series.

State archives shall provide for public inspection of the title and a summary description of each record series.

Amended by Chapter 475, 2025 General Session

63A-12-110 Online training course.

(1) As used in this section, "records officer" is as defined in Section 63G-2-103.

(2) The division shall:

(a) develop an online training course for records officers of all governmental entities and political subdivisions;

(b) make the online training course available on or before January 1, 2013;

(c) on an annual basis, provide certification to a records officer after the records officer successfully completes the online training course; and

(d) post a list on its website of all records officers, including for each:

(i) the name of the records officer;

(ii) the name of the governmental entity or political subdivision to which the records officer provides services as a records officer;

(iii) contact information for the records officer;

(iv) the most recent date on which the records officer completed the online training course; and

(v) the date on which the records officer's certification expires.

(3) The online training course described in this section shall train a records officer regarding the provisions of:

(a) Title 63G, Chapter 2, Government Records Access and Management Act;

(b) rules made under Title 63G, Chapter 2, Government Records Access and Management Act; and

(c) other legal and policy matters relating to responding to a public records request.

(4) The division:
(a) shall develop the online training course in consultation with the attorney general's office; and
(b) may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Enacted by Chapter 377, 2012 General Session

63A-12-112 Records Management Committee -- Creation -- Membership -- Administration.
(1) There is created the Records Management Committee composed of the following seven members:
(a) the director of the Utah Historical Society or the director's designee;
(b) the director of the Division of Archives and Records Services or the director's designee; and
(c) five members appointed by the governor as follows:
(i) a member of the Utah State Bar who understands public records keeping under Title 63G, Chapter 2, Government Records Access and Management Act;
(ii) a member with experience in public finance;
(iii) an individual from the private sector whose principal professional responsibilities are to create or manage records;
(iv) a member representing political subdivisions, recommended by the Utah League of Cities and Towns; and
(v) a member representing the news media.
(2)
(a) Except as provided in Subsection (2)(b), the governor shall appoint each member to a four-year term.
(b) Notwithstanding Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of committee members' terms to ensure that the terms of members appointed by the governor are staggered so that approximately half of the committee members appointed by the governor are appointed every two years.
(c) Each appointed member of the committee is eligible for reappointment for one additional term.
(3) When a vacancy occurs in the membership of the committee for any reason, the applicable appointing authority shall appoint a replacement for the unexpired term.
(4) A member of the Records Management Committee may not receive compensation or benefits for the member's service on the committee, but may receive per diem and travel expenses in accordance with:
(a) Section 63A-3-106;
(b) Section 63A-3-107; and
(c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 160, 2023 General Session

63A-12-113 Records Management Committee -- Duties.
(1) The Records Management Committee shall:
(a) appoint a chair from among the committee's members; and
(b) review and determine whether to approve each schedule for the retention and disposal of records, including a proposed schedule submitted to the committee under Section 63G-2-604, within three months after the day on which the proposed schedule is submitted to the committee.

(2) The Records Management Committee may make recommendations to a governmental entity regarding the entity's management of records.
(3) Four members of the Records Management Committee are a quorum for the transaction of business.
(4) The state archivist shall provide staff and support services for the Records Management Committee.
(5) The Office of the Attorney General shall provide counsel to the Records Management Committee.

Enacted by Chapter 254, 2019 General Session

63A-12-114 Utah Open Records Portal Website.
(1) As used in this section:
(a) "Governmental entity" means the same as that term is defined in Section 63G-2-103.
(b) "Website" means the Utah Open Records Portal Website created in this section.
(2) There is created the Utah Open Records Portal Website to be administered by the division.
(3) Unless otherwise provided by a governmental entity, the website shall serve as an additional point of access for requests for records under Title 63G, Chapter 2, Government Records Access and Management Act.
(4) The division is responsible for:
(a) establishing and maintaining the website, with the technical assistance of the Division of Technology Services, including the provision of equipment, resources, and personnel as necessary;
(b) providing a mechanism for governmental entities to gain access to the website for the purpose of posting, modifying, and maintaining records; and
(c) maintaining an archive of all records posted to the website.
(5) The timing for posting and the content of records posted to the website is the responsibility of the governmental entity posting the record.

Enacted by Chapter 84, 2021 General Session

63A-12-116 Background check for individuals with direct access to a vulnerable record.
(1) If, under Subsection 63A-12-101(3)(c), state archives requires an individual to undergo a background check:
(a) the individual shall:
(i) submit to state archives, in a form designated by state archives, a fingerprint card and other information required by state archives for the background check; and
(ii) consent to a criminal background check by the Federal Bureau of Investigation, the Bureau of Criminal Identification, or any other state entity that performs criminal background checks; and
(b) state archives shall:
(i) submit the fingerprint card and information described in Subsection (1)(a)(i) to the Utah Bureau of Criminal Identification; and
(ii) pay all fees required to conduct the background check, including fees described in Subsection 53-10-108(15)(a) and fees required by the Federal Bureau of Investigation.
(2) The Bureau of Criminal Identification shall provide all results of a criminal background check described in this section to state archives, including results from state, regional, and nationwide background checks.

(3) State archives may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:
(a) establish procedures for requiring and conducting a background check under this section; and
(b) specify requirements for the information and fingerprint card required for a background check under this section.

Enacted by Chapter 173, 2023 General Session

63A-12-117 Digital authentication systems -- Technical standards and requirements.
(1) As used in this section:
(a) "Digital authentication system" means technology and procedures used to create digitally authenticated records.
(b) "Digitally authenticated record" means the same as that term is defined in Section 17-71-301.5.
(c) "Governmental entity" means the same as that term is defined in Section 63G-2-103.
(2) A governmental entity that creates or accepts digitally authenticated records shall:
(a) maintain the records in accordance with approved retention schedules;
(b) ensure records retain authentication characteristics throughout the retention period;
(c) except as otherwise prohibited by law, transfer records to the state archives in accordance with state archivist requirements; and
(d) maintain data necessary for verification and preservation.
(3) The state archivist shall establish procedures for:
(a) accepting digitally authenticated permanent records;
(b) verifying authentication integrity upon transfer;
(c) long-term preservation of digital authentication characteristics; and
(d) providing public access to archived digitally authenticated records in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.
(4)
(a) The state archivist, in consultation with the Division of Technology Services, shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing:
(i) technical standards for digital authentication systems, including:
(A) security requirements;
(B) authentication verification procedures;
(C) acceptable authentication methods and technologies;
(D) cybersecurity standards; and
(E) system integrity requirements;
(ii) preservation standards for digital authentication systems to ensure long-term preservation;
(iii) retention schedule requirements for digitally authenticated records;
(iv) transfer procedures from governmental entities to state archives;
(v) format specifications for archival storage of digitally authenticated records;
(vi) verification procedures for authentication integrity; and
(vii) data requirements for preservation and access.
(b) The state archivist shall ensure that standards established under this section require digitally authenticated records to demonstrate:
(i) immutability or tamper-evident characteristics sufficient to detect unauthorized alterations;
(ii) verified identity of the person authenticating the record using identity verification procedures that meet or exceed the requirements for satisfactory evidence of identity established for remote notarization under Section 46-1-2;

(iii) format sustainability for long-term preservation; and
(iv) compliance with retention schedules.
(5) In making rules under Subsection (4), the state archivist shall consult with:
(a) the Title and Escrow Commission created in Section 31A-2-403;
(b) the County Recorder Standards Board created in Section 63C-30-201; and
(c) other relevant industry stakeholders.

Enacted by Chapter 187, 2026 General Session

Part 2
Government Records Office

63A-12-201 Definitions.

As used in this part:
(1) "Director" means the director of the office, appointed under Subsection 63A-12-202(2).
(2) "Office" means the Government Records Office, created in Subsection 63A-12-202(1).
(3) "Records appeal process" means the process described in Title 63G, Chapter 2, Part 4, Appeals.

Enacted by Chapter 476, 2025 General Session

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

(1) There is created within the division the Government Records Office.
(2) The governor shall appoint the director of the office:
(a) in consultation with the executive director; and
(b) with the advice and consent of the Senate.
(3) The director shall be:
(a) an attorney in good standing, authorized to practice law in Utah;
(b) knowledgeable regarding state law and practices relating to records management, including the provisions of Title 63G, Chapter 2, Government Records Access and Management Act;
(c) committed to:
(i) ensuring that records, and information in records, properly classified as private, protected, or controlled are disclosed only to the extent expressly provided by law;
(ii) protecting the privacy of persons whose information is in the custody of a government entity; and
(iii) the disclosure of records, and information contained in records, to the extent required by law; and
(d) capable of adjudicating appeals relating to the disclosure or nondisclosure of records in a manner that is impartial, responsible, and strictly in accordance with the requirements of law.
(4)
(a) An appointment described in Subsection (2) is for a four-year term.
(b) The governor may, in accordance with Subsection (2), reappoint the same individual to consecutive terms as the director.
(c) The governor may remove the director, only for cause, before the end of a four-year term.
(d) Appointment of a director or an interim director is governed by the provisions of Section 67-1-1.5, relating to an executive branch management position.

(5) The Office of the Attorney General shall provide counsel to the office.
(6) The office shall, on an annual basis before October 1, electronically transmit a written report to the Government Operations Interim Committee on the work performed by the office during the previous year, that includes:
(a) metrics on the standardization and efficiency of processing appeals; and
(b) the effective implementation of the records ombudsman's role.

Enacted by Chapter 476, 2025 General Session

63A-12-203 Duties of director and office -- Reassignment of classification or designation -- Rulemaking authority -- Transition from State Records Committee.
(1) The director shall:
(a) supervise and manage the office;
(b) appoint and supervise a government records ombudsman to fulfill the duties described in Section 63A-12-204;
(c) administer the records appeal process;
(d) hear appeals regarding disputed fees under Section 63G-2-203;
(e) hear and decide appeals from determinations of access under Section 63G-2-403; and
(f) determine disputes submitted by the state auditor under Subsection 67-3-1(17)(d).
(2) The director may:
(a) employ staff to support the work of the office;
(b) by order, after notice and hearing, reassign classification or designation for any record series by a governmental entity if the governmental entity's classification or designation is inconsistent with Title 63G, Chapter 2, Government Records Access and Management Act; and
(c) designate another individual to hear and decide appeals for a specific case if the director has a conflict of interest in relation to that case.
(3) The office shall be a resource to citizens and government entities in relation to government records, including:
(a) ensuring lawful access to records;
(b) ensuring the lawful restriction of access to records;
(c) classification of records;
(d) retention of records; and
(e) resolving records disputes informally, via informal mediation, or via the records appeal process.
(4)
(a) An affected governmental entity or any other interested person may appeal the reassignment of a record under Subsection (2)(b) to a district court within 30 days after the day on which the director makes the reassignment.
(b) The district court shall hear an appeal described in Subsection (4)(a) de novo.
(5) The director shall makes rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to govern the procedures and proceedings for appeals made to the director as described in this part.
(6) The director shall, to the extent practicable and until the rules described in Subsection (5) are in effect, utilize the rules made by the former State Records Committee before January 1, 2025, with the director acting in place of the former State Records Committee.

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

Enacted by Chapter 476, 2025 General Session

63A-12-204 Government records ombudsman.

(1)

(a) The government records ombudsman, appointed under Section 63A-12-202, shall:

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

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

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

(b)

(i) Before the conclusion of a mediation under Subsection (1)(a)(iii), a requester or responder may withdraw consent for the mediation.

(ii) If a requester or responder withdraws consent under Subsection (1)(b)(i), the government records ombudsman shall, in accordance with Subsection (3)(a)(ii), certify that the mediation was not concluded because of a lack of the required consent.

(2) The government records ombudsman may not testify, or be compelled to testify, regarding a matter for which the government records ombudsman provides services under this section:

(a) in an appeals proceeding described in Title 63G, Chapter 2, Part 4, Appeals; or

(b) before an administrative body or a court.

(3) Upon the conclusion of a mediation described in Subsection (1)(a)(iii), or upon the government records ombudsman's determination that the required consent for the mediation is lacking, the government records ombudsman shall:

(a) certify in writing that the mediation:

(i) is concluded; or

(ii) did not take place or was not concluded because of a lack of the required consent; and

(b) provide a copy of the written certification to the requester and the responder.

Renumbered and Amended by Chapter 476, 2025 General Session

63A-12-205 Independent performance survey and evaluation.

(1)

(a) Beginning in 2027 and every two years thereafter, the Division of Human Resource Management shall conduct a survey to collect feedback regarding the director's job performance.

(b) The Division of Human Resource Management shall include as survey respondents a sample of each of the following groups:

(i) individuals who have appeared before the director;

(ii) staff who have worked with the director; and

(iii) any other class of respondents the Division of Human Resource Management determines helpful.

(c)
(i) A survey response is anonymous, including any comment included with a survey response.
(ii) If the Division of Human Resource Management provides any survey information to the director, the division shall provide the information in a manner that protects the survey respondent's confidentiality.
(2) In a survey under this section, the Division of Human Resource Management:
(a) shall include questions relating to whether the director's behavior furthers the elements of procedural fairness, including neutrality, careful deliberation, respectful treatment of parties, and providing parties the opportunity to be heard; and
(b) may include questions concerning the director's legal ability, temperament and integrity, and administrative performance.
(3)
(a) The Division of Human Resource Management may allow survey respondents to indicate responses:
(i) on a numerical scale from one to five; or
(ii) in the affirmative or negative, with an option to indicate the respondent's inability to respond in the affirmative or negative.
(b) To supplement a response to a survey question, the Division of Human Resource Management may allow a respondent to provide written comments.
(4)
(a) Each year in which the Division of Human Resource Management completes a survey under this section, the Division of Human Resource Management shall prepare an evaluation of the director's job performance that includes:
(i) the results of the most recent survey conducted in accordance with this section; and
(ii) any other information the Division of Human Resource Management considers relevant to evaluating the director's performance.
(b)
(i) The Division of Human Resource Management shall provide a copy of the director's performance evaluation to the governor.
(ii) Each year in which the Division of Human Resource Management completes a survey and evaluation under this section, the governor or the governor's designee shall report to the Government Operations Interim Committee on the director's performance.

Enacted by Chapter 476, 2025 General Session

Chapter 13
Office of Inspector General of Medicaid Services

Part 1
General Provisions

63A-13-101 Title.

This chapter is known as "Office of Inspector General of Medicaid Services."

Renumbered and Amended by Chapter 12, 2013 General Session

63A-13-102 Definitions.

As used in this chapter:

(1) "Abuse" means:
  (a) an action or practice that:
    (i) is inconsistent with sound fiscal, business, or medical practices; and
    (ii) results, or may result, in unnecessary Medicaid related costs; or
  (b) reckless or negligent upcoding.
(2) "Advisory board" means the Office of Inspector General of Medicaid Services Advisory Board created under Section 63A-13-701.
(3) "Claimant" means a person that:
  (a) provides a service; and
  (b) submits a claim for Medicaid reimbursement for the service.
(4) "Division" means the Division of Integrated Healthcare, created in Section 26B-3-102.
(5) "Extrapolation" means a method of using a mathematical formula that takes the audit results from a small sample of Medicaid claims and projects those results over a much larger group of Medicaid claims.
(6) "Fraud" means an intentional or knowing:
  (a) deception, misrepresentation, or upcoding in relation to Medicaid funds, costs, a claim, reimbursement, or services; or
  (b) violation of a provision of Sections 26B-3-1102 through 26B-3-1106.
(7) "Fraud unit" means the Medicaid Fraud Control Unit of the attorney general's office.
(8) "Health care professional" means a person licensed under:
  (a) Title 58, Chapter 5a, Podiatric Physician Licensing Act;
  (b) Title 58, Chapter 16a, Utah Optometry Practice Act;
  (c) Title 58, Chapter 17b, Pharmacy Practice Act;
  (d) Title 58, Chapter 24b, Physical Therapy Practice Act;
  (e) Title 58, Chapter 31b, Nurse Practice Act;
  (f) Title 58, Chapter 40, Recreational Therapy Practice Act;
  (g) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act;
  (h) Title 58, Chapter 42a, Occupational Therapy Practice Act;
  (i) Title 58, Chapter 44a, Nurse Midwife Practice Act;
  (j) Title 58, Chapter 49, Dietitian Certification Act;
  (k) Title 58, Chapter 60, Mental Health Professional Practice Act;
  (l) Title 58, Chapter 67, Utah Medical Practice Act;
  (m) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;
  (n) Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act;
  (o) Title 58, Chapter 70a, Utah Physician Assistant Act; and
  (p) Title 58, Chapter 73, Chiropractic Physician Practice Act.
(9) "Inspector general" means the inspector general of the office, appointed under Section 63A-13-201.
(10) "Medicaid program" means the state program for medical assistance for persons who are eligible under the state plan adopted pursuant to Title XIX of the federal Social Security Act.
(11) "Office" means the Office of Inspector General of Medicaid Services, created in Section 63A-13-201.
(12) "Provider" means a person that provides:
  (a) medical assistance, including supplies or services, in exchange, directly or indirectly, for Medicaid funds; or

(b) billing or recordkeeping services relating to Medicaid funds.
(13) "Retaliatory action" means the same as that term is defined in Section 67-19a-101.
(14) "Upcoding" means assigning an inaccurate billing code for a service that is payable or reimbursable by Medicaid funds, if the correct billing code for the service, taking into account reasonable opinions derived from official published coding definitions, would result in a lower Medicaid payment or reimbursement.
(15)
(a) "Waste" means the act of using or expending a resource carelessly, extravagantly, or to no purpose.
(b) "Waste" includes an activity that:
(i) does not constitute abuse or necessarily involve a violation of law; and
(ii) relates primarily to mismanagement, an inappropriate action, or inadequate oversight.

Amended by Chapter 48, 2026 General Session

Part 2
Office and Powers

63A-13-201 Creation of office -- Inspector general -- Appointment -- Term.
(1) There is created within the Department of Government Operations an office known as the "Office of Inspector General of Medicaid Services."
(2) The governor shall:
(a) appoint the inspector general of Medicaid services with the advice and consent of the Senate; and
(b) establish the salary for the inspector general of Medicaid services based upon a recommendation from the Division of Human Resource Management which shall be based on a market salary survey conducted by the Division of Human Resource Management.
(3) A person appointed as the inspector general shall have the following qualifications:
(a) a general knowledge of the type of methodology and controls necessary to audit, investigate, and identify fraud, waste, and abuse;
(b) strong management skills;
(c) extensive knowledge of performance, compliance, and financial audit methodology;
(d) the ability to oversee and execute an audit; and
(e) strong interpersonal skills.
(4) The inspector general of Medicaid services:
(a) shall serve a term of four years; and
(b) may be removed by the governor, for cause.
(5) If the inspector general is removed for cause, a new inspector general shall be appointed, with the advice and consent of the Senate, to serve the remainder of the term of the inspector general of Medicaid services who was removed for cause.
(6) The Office of Inspector General of Medicaid Services:
(a) shall use the legal services of the state attorney general's office;
(b) shall submit a budget for the office directly to the Department of Government Operations;
(c) except as prohibited by federal law, is subject to:
(i) Title 51, Chapter 5, Funds Consolidation Act;
(ii) Title 51, Chapter 7, State Money Management Act;

(iii) Title 63A, Utah Government Operations Code;
(iv) Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
(v) Title 63G, Chapter 4, Administrative Procedures Act;
(vi) Title 63G, Chapter 6a, Utah Procurement Code;
(vii) Title 63J, Chapter 1, Budgetary Procedures Act;
(viii) Title 63J, Chapter 2, Revenue Procedures and Control Act;
(ix) Chapter 17, Utah State Personnel Management Act;
(x) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act;
(xi) Title 52, Chapter 4, Open and Public Meetings Act;
(xii) Title 63G, Chapter 2, Government Records Access and Management Act; and
(xiii) coverage under the Risk Management Fund created under Section 63A-4-201;

(d) when requested, shall provide reports to the governor, the president of the Senate, or the speaker of the House of Representatives;

(e) shall regularly provide the legislative auditor general updates on the office's audit activities authorized under Subsections 63A-13-202(1)(h) and (2); and

(f) shall adopt administrative rules to establish policies for employees that are substantially similar to the administrative rules adopted by the Division of Human Resource Management.

(7)

(a) The executive director shall establish operational performance metrics for the office, including metrics for:
(i) key performance indicators to evaluate the office's overall performance;
(ii) financial recoveries;
(iii) office return on investment;
(iv) reporting practices and data presentation;
(v) stakeholder communication; and
(vi) employee performance.

(b) The executive director shall report on the office's performance based on the metrics established under this Subsection (7):
(i) upon request, to the Health and Human Services Interim Committee and Social Services Appropriations Subcommittee; and
(ii) at least annually and more frequently upon request to the advisory board.

(8)

(a) The executive director shall establish a process for an employee of the office to report the employee's concerns related to:
(i) the performance metrics established under Subsection (7); and
(ii) other concerns related to the office's duties.

(b) The process the executive director establishes under Subsection (8)(a) shall provide for an employee or member of the public to report concerns anonymously.

(c) The executive director shall:
(i) respond to an employee's concern reported in accordance with the process established under this Subsection (8) as soon as reasonably possible; and
(ii) submit a written report of the concerns reported according to the process established under this Subsection (8) to the advisory board at each meeting of the advisory board, including any actions the executive director has taken to address each concern.

(d) The executive director or the inspector general may not take retaliatory action against an employee that reports in good faith a concern in accordance with the process established under this Subsection (8).

Amended by Chapter 48, 2026 General Session

63A-13-202 Duties and powers of inspector general and office.

(1) The inspector general of Medicaid services shall:

(a) administer, direct, and manage the office;

(b) inspect and monitor the following in relation to the Medicaid program:

(i) the use and expenditure of federal and state funds;

(ii) the provision of health benefits and other services;

(iii) implementation of, and compliance with, state and federal requirements; and

(iv) records and recordkeeping procedures;

(c) receive reports of potential fraud, waste, or abuse in the Medicaid program;

(d) investigate and identify potential or actual fraud, waste, or abuse in the Medicaid program;

(e) consult with the Centers for Medicare and Medicaid Services and other states to determine and implement best practices for:

(i) educating and communicating with health care professionals and providers about program and audit policies and procedures;

(ii) discovering and eliminating fraud, waste, and abuse of Medicaid funds; and

(iii) differentiating between honest mistakes and intentional errors, or fraud, waste, and abuse, if the office enters into settlement negotiations with the provider or health care professional;

(f) obtain, develop, and utilize computer algorithms to identify fraud, waste, or abuse in the Medicaid program;

(g) work closely with the fraud unit to identify and recover improperly or fraudulently expended Medicaid funds;

(h) audit, investigate, inspect, and evaluate the functioning of the Medicaid program to ensure that the Medicaid program is managed:

(i) in the most efficient, accountable, and cost-effective manner possible; and

(ii) in a manner that promotes adequate provider and health care professional participation and the provision of appropriate health benefits and services;

(i) identify areas where the Medicaid program can enhance participant health outcomes while maximizing the prudent use of public funds;

(j) identify opportunities for innovation and transformation within the Medicaid program to maximize effectiveness and efficiency;

(k) establish a list of high-risk Medicaid program audit areas the office may use to prioritize the office's audit work;

(l) regularly advise the department and the division of an action that could be taken to ensure that the Medicaid program is managed in the most efficient and cost-effective manner possible;

(m) refer potential criminal conduct, relating to Medicaid funds or the Medicaid program, to the fraud unit;

(n) refer potential criminal conduct, including relevant data from the controlled substance database, relating to Medicaid fraud, to law enforcement in accordance with Title 58, Chapter 37f, Controlled Substance Database Act;

(o) determine ways to:

(i) identify, prevent, and reduce fraud, waste, and abuse in the Medicaid program; and

(ii) balance efforts to reduce costs and avoid or minimize increased costs of the Medicaid program with the need to encourage robust health care professional and provider participation in the Medicaid program;

(p) recover improperly paid Medicaid funds;

(q) track recovery of Medicaid funds by the state;

(r) in accordance with Section 63A-13-502:
(i) report on the actions and findings of the inspector general; and
(ii) make recommendations to the Legislature and the governor;
(s) provide training to:
(i) agencies and employees on identifying potential fraud, waste, or abuse of Medicaid funds; and
(ii) health care professionals and providers on program and audit policies and compliance; and
(t) develop and implement principles and standards for the fulfillment of the duties of the inspector general, based on principles and standards used by:
(i) the federal Offices of Inspector General;
(ii) the Association of Inspectors General; and
(iii) the United States Government Accountability Office.
(2)
(a) The office may, in fulfilling the duties under Subsection (1), conduct a performance, compliance, or financial audit of:
(i) a state executive branch entity or a local government entity, including an entity described in Section 63A-13-301, that:
(A) manages or oversees a Medicaid program; or
(B) manages or oversees the use or expenditure of state or federal Medicaid funds; or
(ii) Medicaid funds received by a person by a grant from, or under contract with, a state executive branch entity or a local government entity.
(b)
(i) The office may not, in fulfilling the duties under Subsection (1), amend the Medicaid program or change the policies and procedures of the Medicaid program.
(ii) The office shall identify conflicts between the state Medicaid plan, Department of Health and Human Services administrative rules, Medicaid provider manuals, and Medicaid information bulletins and recommend that the Department of Health and Human Services reconcile inconsistencies. If the Department of Health and Human Services does not reconcile the inconsistencies, the office shall report the inconsistencies to the Legislature's General Oversight Committee created in Section 36-35-102.
(iii) The office shall review a Medicaid provider manual and a Medicaid information bulletin in accordance with Subsection (2)(b)(ii), prior to the Department of Health and Human Services making the provider manual or Medicaid information bulletin available to the public.
(c) The Department of Health and Human Services shall submit a Medicaid provider manual and a Medicaid information bulletin to the office for the review required by Subsection (2)(b)(iii) prior to releasing the document to the public. The Department of Health and Human Services and the Office of Inspector General of Medicaid Services shall enter into a memorandum of understanding regarding the timing of the review process under Subsection (2)(b)(iii).
(3)
(a) The office shall, in fulfilling the duties under this section to investigate, discover, and recover fraud, waste, and abuse in the Medicaid program, apply the state Medicaid plan, Department of Health and Human Services administrative rules, Medicaid provider manuals, and Medicaid information bulletins in effect at the time the medical services were provided.
(b) A health care provider may rely on the policy interpretation included in a current Medicaid provider manual or a current Medicaid information bulletin that is available to the public.
(4) The inspector general of Medicaid services, or a designee of the inspector general of Medicaid services within the office, may take a sworn statement or administer an oath.

Amended by Chapter 48, 2026 General Session

63A-13-203 Memorandum of understanding with fraud unit.

The inspector general shall enter into a memorandum of understanding with the fraud unit to:

(1) formalize communication, cooperation, coordination of efforts, and the sharing of information, on a regular basis, between the office and the fraud unit;

(2) provide for reporting criminal activity discovered by the office to the fraud unit;

(3) ensure that investigations and other actions by the office and the fraud unit do not conflict; and

(4) provide for the sharing and classification of records between the office and the fraud unit under the Government Records Access and Management Act.

Renumbered and Amended by Chapter 12, 2013 General Session

63A-13-204 Selection and review of claims.

(1)

(a) The office shall periodically select and review a representative sample of claims submitted for reimbursement under the Medicaid program to determine whether fraud, waste, or abuse occurred.

(b) The office shall limit the office's review for waste and abuse under Subsection (1)(a) to 36 months prior to the date of the inception of the investigation or 72 months if there is a credible allegation of fraud. In the event the office or the fraud unit determines that there is fraud as defined in Section 63A-13-102, then the statute of limitations defined in Section 26B-3-1115 shall apply.

(2) The office may directly contact the recipient of record for a Medicaid reimbursed service to determine whether the service for which reimbursement was claimed was actually provided to the recipient of record.

(3) The office shall:

(a) generate statistics from the sample described in Subsection (1) to determine the type of fraud, waste, or abuse that is most advantageous to focus on in future audits or investigations;

(b) ensure that the office, or any entity that contracts with the office to conduct audits:

(i) has on staff or contracts with a medical or dental professional who is experienced in the treatment, billing, and coding procedures used by the type of provider being audited; and

(ii) uses the services of the appropriate professional described in Subsection (3)(b)(i) if the provider that is the subject of the audit disputes the findings of the audit;

(c) ensure that a finding of overpayment or underpayment to a provider is not based on extrapolation, unless:

(i) there is a determination that the level of payment error involving the provider exceeds a 10% error rate:

(A) for a sample of claims for a particular service code; and

(B) over a three year period of time;

(ii) documented education intervention has failed to correct the level of payment error; and

(iii) the value of the claims for the provider, in aggregate, exceeds $200,000 in reimbursement for a particular service code on an annual basis; and

(d) require that any entity with which the office contracts, for the purpose of conducting an audit of a service provider, shall be paid on a flat fee basis for identifying both overpayments and underpayments.

(4)

(a) If the office, or a contractor on behalf of the Department of Health and Human Services:

(i) intends to implement the use of extrapolation as a method of auditing claims, the office or the Department of Health and Human Services shall, prior to adopting the extrapolation method of auditing, report its intent to use extrapolation:
(A) to the Social Services Appropriations Subcommittee; and
(B) as required under Section 63A-13-502; and
(ii) determines Subsections (3)(c)(i) through (iii) are applicable to a provider, the office or the contractor may use extrapolation only for the service code associated with the findings under Subsections (3)(c)(i) through (iii).
(b)
(i) If extrapolation is used under this section, a provider may, at the provider's option, appeal the results of the audit based on:
(A) each individual claim; or
(B) the extrapolation sample.
(ii) Nothing in this section limits a provider's right to appeal the audit under Title 63G, Chapter 4, Administrative Procedures Act, the Medicaid program and its manual or rules, or other laws or rules that may provide remedies to providers.

Amended by Chapter 48, 2026 General Session

63A-13-205 Placement of hold on claims for reimbursement -- Injunction.

(1) The inspector general or the inspector general's designee may, without prior notice, order a hold on the payment of a claim for reimbursement submitted by a claimant if there is reasonable cause to believe that the claim, or payment of the claim, constitutes fraud, waste, or abuse, or is otherwise inaccurate.
(2) The office shall, within seven days after the day on which a hold described in Subsection (1) is ordered, notify the claimant that the hold has been placed.
(3) The inspector general or the inspector general's designee may not maintain a hold longer than is necessary to determine whether the claim, or payment of the claim, constitutes fraud, waste, or abuse, or is otherwise inaccurate.
(4) A claimant may, at any time during which a hold is in place, appeal the hold under Title 63G, Chapter 4, Administrative Procedures Act.
(5) If a claim is approved or denied before a hearing is held under Title 63G, Chapter 4, Administrative Procedures Act, the appeal shall be dismissed as moot.
(6) The inspector general may request that the attorney general's office seek an injunction to prevent a person from disposing of an asset that is potentially subject to recovery by the state to recover funds due to a person's fraud or abuse.
(7) The Department of Health and Human Services and the division shall fully comply with a hold ordered under this section.

Amended by Chapter 48, 2026 General Session

Part 3
Investigation or Audit

63A-13-301 Access to records -- Retention of designation under Government Records Access and Management Act.

(1) In order to fulfill the duties described in Section 63A-13-202, and in the manner provided in Subsection (4), the office shall have unrestricted access to all records of state executive branch entities, all local government entities, and all providers relating, directly or indirectly, to:
  (a) the Medicaid program;
  (b) state or federal Medicaid funds;
  (c) the provision of Medicaid related services;
  (d) the regulation or management of any aspect of the Medicaid program;
  (e) the use or expenditure of state or federal Medicaid funds;
  (f) suspected or proven fraud, waste, or abuse of state or federal Medicaid funds;
  (g) Medicaid program policies, practices, and procedures;
  (h) monitoring of Medicaid services or funds; or
  (i) a fatality review of a person who received Medicaid funded services.
(2) The office shall have access to information in any database maintained by the state or a local government to verify identity, income, employment status, or other factors that affect eligibility for Medicaid services.
(3)
  (a) The records described in Subsections (1) and (2) include records held or maintained by the department, the division, the Department of Health and Human Services, the Department of Workforce Services, a local health department, a local mental health authority, or a school district. The records described in Subsection (1) include records held or maintained by a provider.
  (b) When conducting an audit of a provider, the office shall, to the extent possible, limit the records accessed to the scope of the audit.
(4) A record, described in Subsection (1) or (2), that is accessed or copied by the office:
  (a) may be reviewed or copied by the office during normal business hours, unless otherwise requested by the provider or health care professional under Subsection (4)(b);
  (b) unless there is a credible allegation of fraud, shall be accessed, reviewed, and copied in a manner, on a day, and at a time that is minimally disruptive to the health care professional's or provider's care of patients, as requested by the health care professional or provider;
  (c) may be submitted electronically;
  (d) may be submitted together with other records for multiple claims; and
  (e) if it is a government record, shall retain the classification made by the entity responsible for the record, under Title 63G, Chapter 2, Government Records Access and Management Act.
(5) Except as provided in Subsection (7), notwithstanding any provision of state law to the contrary, the office shall have the same access to all records, information, and databases to which the Department of Health and Human Services or the division has access.
(6) The office shall comply with the requirements of federal law, including the Health Insurance Portability and Accountability Act of 1996 and 42 C.F.R., Part 2, relating to the office's:
  (a) access, review, retention, and use of records; and
  (b) use of information included in, or derived from, records.
(7) The office's access to data held by the Department of Health and Human Services under Title 26B, Chapter 8, Part 5, Utah Health Data Authority:
  (a) is not subject to this section; and
  (b) is subject to Title 26B, Chapter 8, Part 5, Utah Health Data Authority.

Amended by Chapter 48, 2026 General Session

63A-13-302 Access to employees -- Cooperating with investigation or audit.

(1) The office shall have access to interview the following persons if the inspector general determines that the interview may assist the inspector general in fulfilling the duties described in Section 63A-13-202:
  (a) a state executive branch official, executive director, director, or employee;
  (b) a local government official or employee;
  (c) a consultant or contractor of a person described in Subsection (1)(a) or (b); or
  (d) a provider or a health care professional or an employee of a provider or a health care professional.
(2) A person described in Subsection (1) and each supervisor of the person shall fully cooperate with the office by:
  (a) providing the office or the inspector general's designee with access to interview the person;
  (b) completely and truthfully answering questions asked by the office or the inspector general's designee;
  (c) providing the records, described in Subsection 63A-13-301(1), in the manner described in Subsection 63A-13-301(4), requested by the office or the inspector general's designee; and
  (d) providing the office or the inspector general's designee with information relating to the office's investigation or audit.
(3) A person described in Subsection (1)(a) or (b) and each supervisor of the person shall fully cooperate with the office by:
  (a) providing records requested by the office or the inspector general's designee in the manner described in Subsection 63A-13-301(4); and
  (b) providing the office or the inspector general's designee with information relating to the office's investigation or audit, including information that is classified as private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

Renumbered and Amended by Chapter 12, 2013 General Session
Amended by Chapter 359, 2013 General Session

63A-13-303 Cooperation and support.

The Department of Health and Human Services, the division, each consultant or contractor of the Department of Health and Human Services or division, and each provider shall provide its full cooperation and support to the inspector general and the office in fulfilling the duties of the inspector general and the office.

Amended by Chapter 48, 2026 General Session

63A-13-304 Interference with an investigation or audit prohibited.

No person may:
(1) interfere with or impede an investigation or audit of the office or fraud unit; or
(2) interfere with the office relative to the content of a report, the conclusions reached in a report, or the manner of disclosing the results and findings of the office.

Renumbered and Amended by Chapter 12, 2013 General Session

63A-13-305 Audit and investigation procedures.

(1)
  (a) The office shall, in accordance with Section 63A-13-602, adopt administrative rules in consultation with providers and health care professionals subject to audit and investigation

under this chapter to establish procedures for audits and investigations that are fair and consistent with the duties of the office under this chapter.

(b) If the providers and health care professionals do not agree with the rules proposed or adopted by the office under Subsection (1)(a) or Section 63A-13-602, the providers or health care professionals may:

(i) request a hearing for the proposed administrative rule or seek any other remedies under the provisions of Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) request a review of the rule by the Legislature's General Oversight Committee created in Section 36-35-102.

(2) The office shall notify and educate providers and health care professionals subject to audit and investigation under this chapter of the providers' and health care professionals' responsibilities and rights under the administrative rules adopted by the office under the provisions of this section and Section 63A-13-602.

Amended by Chapter 484, 2026 General Session

Part 4
Subpoena Power

63A-13-401 Subpoena power -- Enforcement.

(1) The inspector general has the power to issue a subpoena to obtain a record or interview a person that the office or inspector general has the right to access under Part 3, Investigation or Audit.

(2) A person who fails to comply with a subpoena issued by the inspector general or who refuses to testify regarding a matter upon which the person may be lawfully interrogated:

(a) is in contempt of the inspector general; and

(b) upon request by the inspector general, the attorney general shall:

(i) file a motion for an order to compel obedience to the subpoena with the district court;

(ii) file, with the district court, a motion for an order to show cause why the penalties established in Title 78B, Chapter 6, Part 3, Contempt, should not be imposed upon the person named in the subpoena for contempt of the inspector general; or

(iii) pursue other legal remedies against the person.

(3) Upon receipt of a motion under Subsection (2), the court:

(a) shall expedite the hearing and decision on the motion; and

(b) may:

(i) order the person named in the subpoena to comply with the subpoena; and

(ii) impose any penalties authorized by Title 78B, Chapter 6, Part 3, Contempt, upon the person named in the subpoena for contempt of the inspector general.

(4)

(a) If a subpoena described in this section requires the production of accounts, books, papers, documents, or other tangible items, the person or entity to whom it is directed may petition a district court to quash or modify the subpoena at or before the time specified in the subpoena for compliance.

(b) The inspector general may respond to a motion to quash or modify the subpoena by pursuing any remedy authorized by Subsection (3).

(c) If the court finds that a subpoena requiring the production of accounts, books, papers, documents, or other tangible items is unreasonable or oppressive, the court may quash or modify the subpoena.

(5) Nothing in this section prevents the inspector general from seeking an extraordinary writ to remedy contempt of the inspector general.

(6) Any party aggrieved by a decision of a court under this section may appeal that decision directly to the Utah Supreme Court.

Renumbered and Amended by Chapter 12, 2013 General Session

Part 5
Reporting

63A-13-501 Duty to report potential Medicaid fraud to the office or fraud unit.

(1)

(a) Except as provided in Subsection (1)(b), a health care professional, a provider, or a state or local government official or employee who becomes aware of fraud, waste, or abuse shall report the fraud, waste, or abuse to the office or the fraud unit.

(b)

(i) The reporting exception in this Subsection (1)(b) does not apply to fraud and abuse. Suspected fraud and abuse shall be reported in accordance with Subsection (1).

(ii) If a person described in Subsection (1)(a) reasonably believes that the suspected waste is a mistake, and is not intentional or knowing, the person may first report the suspected waste to the provider, health care professional, or compliance officer for the provider or health care professional.

(iii) The person described in Subsection (1)(b)(ii) shall report the suspected waste to the office or the fraud unit unless, within 30 days after the day on which the person reported the suspected waste to the provider, health care professional, or compliance officer, the provider, health care professional, or compliance officer demonstrates to the person that the suspected waste has been corrected.

(2) A person who makes a report under Subsection (1) may request that the person's name not be released in connection with the investigation.

(3) If a request is made under Subsection (2), the person's identity may not be released to any person or entity other than the office, the fraud unit, or law enforcement, unless a court of competent jurisdiction orders that the person's identity be released.

Renumbered and Amended by Chapter 12, 2013 General Session
Amended by Chapter 359, 2013 General Session

63A-13-502 Report and recommendations to governor and General Government Appropriations Subcommittee.

(1) The inspector general of Medicaid services shall, on an annual basis, prepare an electronic report on the activities of the office for the preceding fiscal year.

(2) The report shall include:

(a) non-identifying information, including statistical information, on:

(i) the items described in Subsection 63A-13-202(1)(b) and Section 63A-13-204;

(ii) action taken by the office and the result of that action;
(iii) fraud, waste, and abuse in the Medicaid program, including emerging trends of Medicaid fraud, waste, and abuse and the office's actions to identify and address the emerging trends;
(iv) the recovery of fraudulent or improper use of state and federal Medicaid funds, including total dollars recovered through cash recovery, credit adjustments, and rebilled claims;
(v) measures taken by the state to discover and reduce fraud, waste, and abuse in the Medicaid program;
(vi) audits conducted by the office, including performance, compliance, and financial audits;
(vii) investigations conducted by the office and the results of those investigations, including preliminary investigations;
(viii) administrative and educational efforts made by the office and the division to improve compliance with Medicaid program policies and requirements;
(ix) total cost avoidance attributed to an office policy or action;
(x) the number of complaints against Medicaid recipients received and disposition of those complaints;
(xi) the number of educational activities that the office provided to a provider or a state agency;
(xii) the number of credible allegations of fraud referred to the Medicaid fraud control unit under Section 63A-13-501; and
(xiii) the number of data pulls performed and general results of those pulls;
(b) recommendations on action that should be taken by the Legislature or the governor to:
(i) improve the discovery and reduction of fraud, waste, and abuse in the Medicaid program;
(ii) improve the recovery of fraudulently or improperly used Medicaid funds; and
(iii) reduce costs and avoid or minimize increased costs in the Medicaid program;
(c) recommendations relating to rules, policies, or procedures of a state or local government entity; and
(d) services provided by the Medicaid program that exceed industry standards.
(3) The report described in Subsection (1) may not include any information that would interfere with or jeopardize an ongoing criminal investigation or other investigation.
(4) On or before November 1 of each year, the inspector general of Medicaid services shall provide the electronic report described in Subsection (1) to the General Government Appropriations Subcommittee and the Social Services Appropriations Subcommittee of the Legislature and to the governor.
(5) In addition to the report described in Subsection (1), the inspector general shall present the information described in Subsections (2)(a)(iii) and (vii):
(a) at the first interim meeting each year of the Health and Human Services Interim Committee and the Social Services Appropriations Subcommittee; and
(b) at subsequent meetings at the request of the chairs of the Health and Human Services Interim Committee or the Social Services Appropriations Subcommittee.

Amended by Chapter 48, 2026 General Session

Part 6
Miscellaneous Provisions

63A-13-601 Provision of contract services to Office of Inspector General of Medicaid Services.

(1) The division and the assistant attorneys general assigned to the division shall provide, without charge, contract review, contract enforcement, and other contract management services to the office.
(2) The division shall ensure that the services described in Subsection (1) are provided in an expeditious manner.
(3) The attorney general shall designate one of the assistant attorneys general assigned to the division to give first priority to providing the services described in Subsection (1) to the office.
(4) The office and the division shall enter into a memorandum of understanding in order to execute the requirements of this section in an effective and efficient manner.

Renumbered and Amended by Chapter 12, 2013 General Session

63A-13-602 Rulemaking authority.

The office may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and Section 63A-13-305, that establish policies, procedures, and practices, in accordance with the provisions of this chapter, relating to:
(1) inspecting and monitoring the Medicaid program;
(2) discovering and investigating potential fraud, waste, or abuse in the Medicaid program;
(3) developing and implementing the principles and standards described in Subsection 63A-13-202(1)(t);
(4) auditing, investigating, inspecting, and evaluating the functioning of the Medicaid program under Subsection 63A-13-202(1)(h);
(5) conducting a performance, compliance, or financial audit under Subsection 63A-13-202(1)(h) or (2); or
(6) ordering a hold on the payment of a claim for reimbursement under Section 63A-13-205.

Amended by Chapter 48, 2026 General Session

Part 7
Office Of Inspector General Of Medicaid Services Advisory Board

63A-13-701 Office of Inspector General of Medicaid Services Advisory Board.

(1) In consultation with the inspector general, the executive director or the executive director's designee shall create an advisory board known as the "Office of Inspector General of Medicaid Services Advisory Board," to:
  (a) promote coordination of Medicaid program integrity activities between the office, the Department of Health and Human Services, the division, the Legislature, and other federal, state, and local entities;
  (b) make recommendations to the office and the Department of Government Operations regarding prioritization of the office's financial audit activities;
  (c) review employee concerns reported in accordance with the process the executive director establishes under Subsection 63A-13-201(8);
  (d) make recommendations to the inspector general, the executive director, and the Legislature for improving the office's operations;

(e) review the office's annual risk assessment and the office's annual audit plan;
(f) review limitations that impede the office's ability to appropriately conduct audits; and
(g) review agencies' implementation of the office's audit recommendations.
(2) The Department of Government Operations shall make rules to establish:
(a) composition of the advisory board, which shall include:
(i) the executive director of the Department of Health and Human Services or the executive director's designee; and
(ii) the state Medicaid director appointed under Section 26B-3-103;
(b) the method of selection or appointment of advisory board members, including for the selection of an advisory board chair;
(c) terms of service for members of the advisory board;
(d) quorum requirements; and
(e) voting requirements.
(3) Members of the advisory board shall be qualified by training, education, and experience.
(4) The advisory board chair shall call meetings of the advisory board:
(a) at least two times each year; and
(b) in addition to the meetings described in Subsection (4)(a), at the request of the executive director.
(5) In carrying out the advisory board's duties, the advisory board shall coordinate with the legislative auditor general.
(6) The advisory board is subject to Title 52, Chapter 4, Open and Public Meetings Act.
(7) A member of the advisory board may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
(a) Section 63A-3-106;
(b) Section 63A-3-107; and
(c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

Enacted by Chapter 48, 2026 General Session

Chapter 14
Review of Executive Branch Ethics Complaints

Part 1
General Provisions

63A-14-101 Title.
(1) This chapter is known as "Review of Executive Branch Ethics Complaints."
(2) This part is known as "General Provisions."

Enacted by Chapter 426, 2013 General Session

63A-14-102 Definitions.
As used in this chapter:
(1) "Commission" means the Independent Executive Branch Ethics Commission, created in Section 63A-14-202.

(2) "Complainant" means an individual who files a complaint under Subsection 63A-14-402(1)(a).
(3) "Executive branch elected official" means:
(a) the governor;
(b) the lieutenant governor;
(c) the state auditor;
(d) the state treasurer; or
(e) the attorney general.
(4) "Improper purpose" includes harassing a respondent, causing unwarranted harm to a respondent's reputation, or causing unnecessary expenditure of public funds.
(5) "Malfeasance in office" means an intentional act or omission relating to the duties of an executive branch elected official that:
(a) constitutes a crime; or
(b)
(i) constitutes a substantial breach of the trust imposed upon the executive branch elected official by the nature of the official's office; and
(ii) is against commonly accepted standards of honesty and morality.
(6) "Respondent" means the executive branch elected official against whom an ethics complaint described in Section 63A-14-402 is filed.
(7) "Violation" means a high crime, a misdemeanor, or malfeasance in office.

Amended by Chapter 461, 2018 General Session

Part 2
Independent Executive Branch Ethics Commission

63A-14-201 Title.
This part is known as "Independent Executive Branch Ethics Commission."

Enacted by Chapter 426, 2013 General Session

63A-14-202 Independent Executive Branch Ethics Commission -- Membership.
(1)
(a) There is created the Independent Executive Branch Ethics Commission, consisting of the following five members appointed by the governor, each of whom shall be registered to vote in the state at the time of appointment:
(i) two members who served:
(A) as elected officials in state government no more recently than four years before the day on which the member is appointed; or
(B) in a management position in the state executive branch no more recently than four years before the day on which the member is appointed;
(ii) one member who:
(A) has served, but no longer actively serves, as a judge of a court in the state; or
(B) is a licensed attorney in the state and is not, and has not been, a judge; and
(iii) two citizen members.
(b) The governor shall make appointments to the commission as follows:

(i) each executive branch elected official, other than the governor, shall select, and provide to the governor, at least two names for potential appointment to one of the membership positions described in Subsection (1)(a);
(ii) the governor shall determine which of the executive branch elected officials described in Subsection (1)(b)(i) shall select names for which membership position;
(iii) the governor shall appoint to the commission one of the names provided by each executive branch elected official described in Subsection (1)(b)(i);
(iv) the governor shall directly appoint the remaining member of the commission; and
(v) if an executive branch elected official fails to submit names to the governor within 15 days after the day on which the governor makes the determination described in Subsection (1)(b)(ii), the governor shall directly appoint a person to fill the applicable membership position.

(2) A member of the commission may not, during the member's term of office on the commission, act or serve as:
(a) an officeholder as defined in Section 20A-11-101;
(b) an agency head as defined in Section 67-16-3;
(c) a lobbyist as defined in Section 36-11-102;
(d) a principal as defined in Section 36-11-102; or
(e) an employee of the state.

(3)
(a) Except as provided in Subsection (3)(b), each member of the commission shall serve a four-year term.
(b) The governor shall set the first term of two of the members of the commission at two years, so that approximately half of the commission is appointed, or reappointed, every two years.
(c) When a vacancy occurs in the commission's membership for any reason, the governor shall appoint a replacement member for the unexpired term of the vacating member, in accordance with Subsection (1).
(d) The governor may not appoint a member to serve more than two full terms, whether those terms are two or four years.
(e)
(i) The governor, or a majority of the commission, may remove a member from the commission only for cause.
(ii) The governor may not remove a member from the commission during any period of time when the commission is investigating or considering a complaint alleging an ethics violation against the governor or lieutenant governor.
(f) If a commission member determines that the commission member has a conflict of interest in relation to a complaint, the remaining members of the commission shall appoint an individual to serve in that member's place for the purpose of reviewing that complaint.

(4)
(a) A member of the commission may not receive compensation or benefits for the member's service, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
(b) A member may decline to receive per diem and expenses for the member's service.

(5)
(a) The commission members shall convene a meeting annually each January and elect, by majority vote, a chair from among the commission members.
(b) An individual may not serve as chair for more than two consecutive years.

(6) The commission:

(a) is an independent entity established within the department for budgetary and general administrative purposes only; and
(b) is not under the direction or control of the department, the executive director, or any other officer or employee of the department.

Amended by Chapter 125, 2022 General Session

63A-14-203 Independent Executive Branch Ethics Commission -- Meetings -- Annual summary report -- Staff -- Legal counsel -- Supplemental appropriations.

(1) The commission shall meet for the purpose of reviewing an ethics complaint when:
(a) except as otherwise expressly provided in this chapter, called to meet at the discretion of the chair; or
(b) called to meet by a majority vote of the commission.
(2)
(a) A majority of the commission is a quorum.
(b) A majority vote of a quorum present constitutes the action of the commission.
(3)
(a) The commission shall prepare an annual summary data report that contains:
(i) a general description of the activities of the commission during the past year;
(ii) the number of ethics complaints filed with the commission;
(iii) the number of ethics complaints reviewed by the commission;
(iv) a summary description of ethics complaints that formed the basis for a commission finding that an allegation in a complaint has merit; and
(v) an accounting of the commission's budget and expenditures.
(b) The commission shall submit the summary data report to the governor before December 1 each year.
(c) The summary data report is a public record.
(4) The commission:
(a) shall employ a director to provide administrative support to the commission and to assist the commission in fulfilling the commission's duties;
(b) may employ additional staff, to work under the direction of the director;
(c) shall contract with private legal counsel to provide legal services to the commission, as needed; and
(d) may, in consultation with the Office of the Legislative Fiscal Analyst, request supplemental appropriations to pay the costs of legal fees and other staffing needs that exceed the commission's budget due to the number or complexity of the ethics complaints filed with or considered by the commission in a fiscal year.
(5)
(a) Except as provided in Subsection (5)(b), staff for the commission may not perform services for any other person in state government.
(b) A person employed as staff for the commission may be the same person employed as staff for the Independent Legislative Ethics Commission, if the staff ensures that proper protections are in place to preserve the confidentiality to both bodies and to avoid a conflict of interest.
(6) Except as expressly otherwise provided in this chapter, all meetings held under this chapter are closed to the public.

Amended by Chapter 461, 2018 General Session

Part 3
General Powers and Procedures

63A-14-301 Title.

This part is known as "General Powers and Procedures."

Enacted by Chapter 426, 2013 General Session

63A-14-302 Authority to review complaint -- Grounds for complaint -- Limitations on filings.

(1) Subject to the requirements of this chapter, the commission may review an ethics complaint against an executive branch elected official if the complaint alleges that the executive branch elected official has committed a violation.

(2) The commission may not review an ethics complaint filed against an executive branch elected official unless the complaint alleges conduct that, if true, would constitute grounds for impeachment under the Utah Constitution.

(3) A complaint against an executive branch elected official may not allege a violation by the executive branch elected official for an act by an individual under the authority of the executive branch elected official, unless the complaint evidences that the executive branch elected official:

(a) encouraged, condoned, or ordered the act;

(b)

(i) before the individual engaged in the act, knew or should have known that the individual was likely to engage in the act; and

(ii) failed to take appropriate action to prevent the act;

(c)

(i) while the individual engaged in the act, knew or should have known that the individual was engaging in the act; and

(ii) failed to take appropriate action to stop the act; or

(d)

(i) after the individual engaged in the act, knew or should have known that the individual engaged in the act; and

(ii) failed to take appropriate action in response to the act.

(4) A complaint against an executive branch elected official may not allege a violation by the executive branch elected official for an individual under the authority of the executive branch elected official failing to act, unless the complaint evidences that the executive branch elected official:

(a) encouraged, condoned, or ordered the failure to act;

(b)

(i) before the individual failed to act, knew or should have known that the individual was likely to fail to act; and

(ii) failed to take appropriate action to prevent the failure to act;

(c)

(i) while the individual was failing to act, knew or should have known that the individual was failing to act; and

(ii) failed to take appropriate action to prevent the failure to act; or

(d)

(i) after the individual failed to act, knew or should have known that the individual failed to act; and

(ii) failed to take appropriate action in response to the failure to act.

(5) Individuals who file a complaint for an alleged violation shall file the complaint within two years after the later of:

(a) the day on which the action or omission that forms the basis for the alleged violation occurs or would have been discovered by a reasonable person; or

(b) the day on which a plea or conviction that forms the basis for the allegation is entered.

(6)

(a) A complaint may not contain an allegation that was previously reviewed by the commission, unless:

(i) the allegation is accompanied by material facts or circumstances supporting the allegation that were not raised or pled to the commission when the allegation was previously reviewed; and

(ii) the allegation and the general facts and circumstances supporting the allegation were only reviewed by the commission on one previous occasion.

(b) If an allegation in a complaint does not comply with the requirements of Subsection (6)(a), the commission or the chair shall dismiss the allegation with prejudice.

(7)

(a) An individual may not file a complaint under this chapter that alleges the same conduct alleged in a grievance filed under Title 67, Chapter 19a, Grievance Procedures, unless the individual files the complaint within seven days before or after the day on which the individual files the grievance under Title 67, Chapter 19a, Grievance Procedures.

(b) If an allegation in a complaint does not comply with the requirements of Subsection (7)(a), the commission or the chair shall dismiss the allegation with prejudice.

(c) If an individual files a complaint under this chapter, in accordance with the time requirement described in Subsection (7)(a), that alleges the same conduct alleged in a grievance filed under Title 67, Chapter 19a, Grievance Procedures:

(i) the commission may stay proceedings before the commission in relation to the allegation, pending resolution of the grievance filed under Title 67, Chapter 19a, Grievance Procedures; and

(ii) the Career Service Review Office, created in Section 67-19a-201, shall, upon request of the commission, inform the commission of the progress and final disposition of the grievance proceeding.

(8) If the commission stays proceedings under Subsection (7)(c), the matter shall proceed as follows after the grievance under Title 67, Chapter 19a, Grievance Procedures, is resolved:

(a) if the individual who filed the complaint under this chapter desires to proceed with the complaint:

(i) the individual shall, within 15 days after the day on which a final decision is rendered under Title 67, Chapter 19a, Grievance Procedures, file a written document with the commission:

(A) describing the final decision; and

(B) stating that the individual desires to proceed with the complaint;

(ii) the Career Service Review Office, created in Section 67-19a-201, shall, upon request of the commission, provide copies of all records relating to the grievance described in Subsection (7)(c)(i), in accordance with Section 63G-2-206; and

(iii) the commission shall:

(A) review the records described in Subsection (8)(a)(ii);

(B) consider any additional evidence that the commission determines necessary;

(C) in the discretion of the commission, hear closing arguments from the parties; and
(D) comply with Section 63A-14-604; or
(b) if the individual who filed the complaint under this chapter does not desire to proceed with the complaint, the individual shall, within 15 days after the day on which a final decision is rendered under Title 67, Chapter 19a, Grievance Procedures, file a written document with the commission stating that the individual does not desire to proceed with the complaint.
(9) The commission shall dismiss a complaint for which the commission stayed proceedings under Subsection (7)(c) if the individual who filed the complaint:
(a) fails to timely comply with Subsection (8)(a)(i); or
(b) files the document described in Subsection (8)(b).

Amended by Chapter 461, 2018 General Session

63A-14-303 General powers -- Jurisdiction.
(1) The commission has jurisdiction only over an individual who is currently serving as an executive branch elected official.
(2) The commission or the chair shall dismiss an ethics complaint if:
(a) the respondent resigns from the respondent's position as an executive branch elected official; or
(b) the House of Representatives convenes to consider impeachment of the executive branch elected official.
(3)
(a) The commission may suspend commission proceedings during a period of time when a criminal investigation or prosecution, based in whole or in part on an allegation in the complaint, is pending.
(b) The time periods and deadlines described in this chapter are tolled during a suspension described in Subsection (3)(a).
(4) The commission does not have jurisdiction over a violation that occurs before March 14, 2013.

Enacted by Chapter 426, 2013 General Session

Part 4
Ethics Complaints

63A-14-401 Title.
This part is known as "Ethics Complaints."

Enacted by Chapter 426, 2013 General Session

63A-14-402 Ethics complaints -- Filing -- Form.
(1)
(a) The following individuals may file an ethics complaint against an executive branch elected official if the complaint meets the requirements of Section 63A-14-302 and Subsection (1)(b):
(i) two or more executive branch elected officials, deputies of elected officials, executive directors of departments in the executive branch, or directors of divisions in the executive branch, if the complaint contains evidence or sworn testimony that:

(A) describes the facts and circumstances supporting the alleged violation; and
(B) is generally admissible under the Utah Rules of Evidence; or
(ii) two or more registered voters who currently reside in Utah and are not individuals described in Subsection (1)(a)(i), if, for each alleged violation pled in the complaint, at least one of those registered voters has personal knowledge of the facts and circumstances supporting the alleged violation.
(b) Complainants may file a complaint only against an individual who is serving as an executive branch elected official on the date that the complaint is filed.
(2)
(a) The commission shall post, on the state's website, a conspicuous and clearly identified link to the name and address of a person authorized to accept a complaint on behalf of the commission.
(b) Complainants shall file a complaint with the person described in Subsection (2)(a).
(c) An individual may not file a complaint during the 60 calendar days immediately preceding:
(i) a regular primary election in which the accused executive branch elected official is a candidate; or
(ii) a regular general election in which the accused executive branch elected official is a candidate, unless the accused executive branch elected official is unopposed in the election.
(3) The complainants shall ensure that each complaint filed under this rule is in writing and contains the following information:
(a) the name and position or title of the respondent;
(b) the name, address, and telephone number of each individual who is filing the complaint;
(c) a description of each alleged violation, including for each alleged violation:
(i) a reference to any criminal provision that the respondent is alleged to have violated;
(ii) a reference to any other provision of law that the respondent is alleged to have violated or failed to comply with;
(iii) the name of the complainant or complainants who have personal knowledge of the supporting facts and circumstances; and
(iv) the facts and circumstances supporting the allegation, which shall be provided by:
(A) copies of official records or documentary evidence; or
(B) one or more affidavits, each of which shall comply with the format described in Subsection (4);
(d) a list of the witnesses that the complainants desire to call, including for each witness:
(i) the name, address, and, if available, one or more telephone numbers of the witness;
(ii) a brief summary of the testimony to be provided by the witness; and
(iii) a specific description of any documents or evidence the complainants desire the witness to produce;
(e) a statement that each complainant:
(i) has reviewed the allegations contained in the complaint and the affidavits and documents attached to the complaint;
(ii) believes that the complaint is submitted in good faith and not for any improper purpose; and
(iii) believes the allegations contained in the complaint to be true and accurate; and
(f) the signature of each complainant.
(4) An affidavit described in Subsection (3)(c)(iv)(B) shall include:
(a) the name, address, and telephone number of the affiant;
(b) a statement that the affiant has personal knowledge of the facts and circumstances described in the affidavit;

(c) the facts and circumstances testified to by the affiant;
(d) a statement that the affidavit is believed to be true and correct and that false statements are subject to penalties for perjury; and
(e) the signature of the affiant.

Amended by Chapter 461, 2018 General Session

63A-14-403 Privacy of ethics complaint -- Dismissal -- Contempt.

(1)
(a) Except as provided in Subsection (2) or (4), a person, including the complainant, the respondent, a commission member, or staff to the commission may not disclose the existence of a complaint, a response, or any information concerning an alleged violation that is the subject of a complaint.
(b) A person that violates this Subsection (1) may be held in contempt of the commission in accordance with Section 63A-14-705.

(2) The restrictions described in Subsection (1) do not apply to:
(a) a complaint or response that is publicly released by the commission and referred to the Legislature;
(b) the respondent's voluntary disclosure that the commission determined that all allegations in a complaint are without merit, after the commission issues an order dismissing the complaint under Section 63A-14-605;
(c) a disclosure by a respondent that is made solely for the purpose of, and only to the extent necessary for, retaining counsel or conducting an interview, seeking evidence, or taking other action to prepare to defend against a complaint;
(d) a communication between a commission member and the commission's attorney or a member of the commission's staff; or
(e) a disclosure to a person that is determined necessary, by a majority vote of the commission, to conduct the duties of the commission.

(3) When a person makes a disclosure under Subsection (2)(c) or (e), the person making the disclosure shall inform the person to whom the disclosure is made of the nondisclosure requirements described in this section.

(4) Nothing in this section prevents a person from disclosing facts or allegations regarding potential criminal violations to law enforcement authorities.

(5) If the existence of an ethics complaint is publicly disclosed by a person, other than the respondent, an agent of the respondent, or a person who learns of the complaint under Subsection (2)(c) or (e), during the period that the commission is reviewing the complaint, the commission shall summarily dismiss the complaint without prejudice.

Amended by Chapter 461, 2018 General Session

63A-14-405 Motion to disqualify commission member for conflict of interest.

(1) A complainant may file a motion to disqualify one or more members of the commission from participating in proceedings relating to the complaint if the individual files the motion within 20 days after the later of:
(a) the day on which the individual files the ethics complaint; or
(b) the day on which the individual knew or should have known of the grounds upon which the motion is based.

(2) A respondent may file a motion to disqualify one or more members of the commission from participating in proceedings relating to the complaint if the respondent files the motion within 20 days after the later of:
(a) the day on which the respondent receives delivery of the complaint; or
(b) the day on which the respondent knew or should have known of the grounds upon which the motion is based.
(3) A motion filed under this section shall include:
(a) a statement that the members to whom the motion relates have a conflict of interest that, under the circumstances, would lead a reasonable person to question the impartiality of the members;
(b) a detailed description of the grounds supporting the statement described in Subsection (3)(a); and
(c) a statement that the motion is filed in good faith, supported by an affidavit or declaration under penalty of Title 78B, Chapter 18a, Uniform Unsworn Declarations Act, stating that the motion and all accompanying statements and documents are true and correct to the best of the complainant's or respondent's knowledge.
(4) A party may not file more than one motion to disqualify, unless the second or subsequent motion:
(a) is based on grounds of which the party was not aware, and could not have been aware, at the time of the earlier motion; and
(b) is accompanied by a statement, included in the affidavit or declaration described in Subsection (3)(c), explaining how and when the party first became aware of the grounds described in Subsection (4)(a).
(5) The commission shall dismiss a motion filed under this section, with prejudice, if the motion:
(a) is not timely filed; or
(b) does not comply with the requirements of this section.
(6) A member of the commission may:
(a) on the member's own motion, disqualify the member from participating in proceedings relating to a complaint if the member believes that the member has a conflict of interest that, under the circumstances, would lead a reasonable person to question the impartiality of the member; or
(b) ask the commission to disqualify another member of the commission if the member believes that the member has a conflict of interest that, under the circumstances, would lead a reasonable person to question the impartiality of the member.
(7)
(a) When a party files a motion under this section, or when a commission member makes a request under Subsection (6)(b), the commission member for whom disqualification is sought may make the initial determination regarding whether the commission member has a conflict of interest.
(b) If a commission member described in Subsection (7)(a) determines that the commission member has a conflict of interest, the commission member shall disqualify the commission member from participating in the matter.
(c) If a commission member described in Subsection (7)(a) determines that the commission member does not have a conflict of interest, or declines to make the determination, the remainder of the commission shall, by majority vote, determine whether the commission member has a conflict of interest.
(d) A vote of the commission, under Subsection (7)(c), constitutes a final decision on the issue of a conflict of interest.

(8) In making a determination under Subsection (7)(c), the commission may:
(a) gather additional evidence;
(b) hear testimony; or
(c) request that the commission member who is the subject of the motion or request file an affidavit or declaration responding to questions posed by the commission.

Amended by Chapter 136, 2019 General Session

Part 5
Preliminary Action

63A-14-501 Title.
This part is known as "Preliminary Action."

Enacted by Chapter 426, 2013 General Session

63A-14-502 Initial review of ethics complaint -- Notice.
(1)
(a) Except as provided in Subsection (1)(b), within five business days after the day on which the commission receives a complaint, the director of the commission, in consultation with the chair, shall examine the complaint to determine if the complaint is in compliance with Sections 63A-14-302 and 63A-14-402.
(b) The chair shall appoint another staff member or member of the commission to fulfill a duty described in Subsection (1)(a) if an individual described in Subsection (1)(a) has a conflict of interest in relation to the complaint.
(2) If the chair determines that the complaint does not comply with Sections 63A-14-302 and 63A-14-402, the chair shall:
(a) return the complaint to the first complainant named on the complaint with:
(i) a description of the reason for the noncompliance; and
(ii) a copy of the applicable provisions of law; and
(b) without disclosing the identity of the respondent, notify the other members of the commission that a complaint was filed against an executive branch elected official, but that the complaint was returned for noncompliance with the requirements of this chapter.
(3) Each member of the commission and the commission's staff shall keep confidential the fact that a complaint was filed and returned until the commission submits the annual summary data report described in Section 63A-14-203.
(4) If a complaint is returned for noncompliance with the requirements of this chapter, the complainants may file another complaint if the new complaint independently meets the requirements of Sections 63A-14-302 and 63A-14-402, including any requirements for timely filing.
(5) If the chair determines that a complaint complies with the requirements of this chapter, the chair shall:
(a) accept the complaint;
(b) notify the members of the commission that:
(i) a complaint has been filed against an executive branch elected official; and
(ii) the chair has accepted the complaint; and

(c) within five business days after the day on which the commission receives the complaint, forward the complaint to the respondent via personal delivery or a delivery method that provides verification of receipt, and include with the complaint notice of the respondent's deadline for filing a response to the complaint.

(6)

(a) The identity of the respondent and the allegations raised in a complaint are confidential pending the commission's review of the complaint.

(b) The fact that a complaint was filed is confidential until the commission publicly discloses the existence of the complaint by:

(i) issuing a finding that an allegation in the complaint has merit; or

(ii) submitting the annual summary data report described in Section 63A-14-203.

Amended by Chapter 461, 2018 General Session

63A-14-503 Meeting of the commission for review of complaint -- Procedures.

(1) No later than 10 days after the day on which a complaint is accepted under Section 63A-14-502, the chair shall:

(a) except as provided in Subsection (2), schedule a commission meeting on a date:

(i) no later than 60 days after the day on which the chair accepts the complaint; and

(ii) no earlier than 40 days after the day on which the chair accepts the complaint;

(b) place the complaint on the agenda for consideration at that meeting;

(c) provide notice of the date, time, and location of the meeting to:

(i) the members of the commission;

(ii) the first complainant named in the complaint; and

(iii) the respondent; and

(d) provide a copy of the complaint to each member of the commission.

(2) The commission may, by majority vote, change the date of the meeting for review of the complaint in order to accommodate:

(a) a meeting described in Subsection 63A-14-602(2); or

(b) necessary scheduling requirements.

(3) The commission may conduct a vote to change the date of the meeting described in Subsection (2) by phone or electronic means if the members do not discuss any other matters relating to the complaint during the communication.

Enacted by Chapter 426, 2013 General Session

63A-14-504 Response to ethics complaint -- Filing -- Form.

(1) A respondent shall file a response to a complaint with the commission no later than 20 days after the day on which the respondent receives delivery of the complaint.

(2) A respondent shall ensure that the response is in writing and contains the following information:

(a) the name, address, and telephone number of the respondent;

(b) for each alleged violation in the complaint:

(i) each affirmative defense asserted in response to the allegation, including a general description of each affirmative defense and the facts and circumstances supporting the defense, supported by one or more affidavits, each of which shall comply with the format described in Subsection (3); and

(ii) the facts and circumstances refuting the allegation, which shall be provided by:

(A) copies of official records or documentary evidence; or

(B) one or more affidavits, each of which shall comply with the format described in Subsection (3);

(c) a list of the witnesses that the respondent desires to call, including for each witness:

(i) the name, address, and, if available, telephone number of the witness;

(ii) a brief summary of the testimony to be provided by the witness; and

(iii) a specific description of any documents or evidence that the respondent desires the witness to produce;

(d) a statement that the respondent:

(i) has reviewed the allegations contained in the complaint and the sworn statements and documents attached to the response; and

(ii) believes the contents of the response to be true and accurate; and

(e) the signature of the respondent.

(3) An affidavit described in Subsection (2)(b) shall include:

(a) the name, address, and telephone number of the affiant;

(b) a statement that the affiant has personal knowledge of the facts and circumstances alleged in the affidavit;

(c) the facts and circumstances testified to by the affiant;

(d) a statement that the affidavit is believed to be true and correct and that false statements are subject to penalties for perjury; and

(e) the signature of the affiant.

(4) Within five business days after the day on which the commission receives the response, the commission shall provide copies of the response to:

(a) each member of the commission; and

(b) the first named complainant on the complaint.

Amended by Chapter 461, 2018 General Session

Part 6
Ethics Proceedings

63A-14-601 Title.

This part is known as "Ethics Proceedings."

Enacted by Chapter 426, 2013 General Session

63A-14-602 Review of ethics complaint by commission.

(1) The scope of the commission's review of a complaint is limited to the alleged violations stated in the complaint.

(2) Before holding a meeting for review of a complaint, the chair may schedule a separate meeting of the commission to:

(a) review a complaint, with or without the attendance of the parties, to determine if the complaint should be dismissed in whole or in part, by means of a majority vote of the commission, because the complaint pleads facts or circumstances against an executive branch elected official that have already been reviewed by the commission;

(b) hear motions or arguments from the parties, including hearing motions or arguments relating to dismissal of a complaint, admission of evidence, or procedures; or

(c) hold a vote of the commission, with or without the attendance of the parties, on procedural or commission business matters relating to a complaint.

(3)

(a) The commission shall comply with the Utah Rules of Evidence except where the commission determines, by majority vote, that a rule is not compatible with the requirements of this chapter.

(b) The chair shall make rulings on admissibility of evidence consistent with the provisions of Section 63A-14-703.

(4)

(a) The following individuals may be present during the presentation of testimony and evidence to the commission:

(i) the complainants, except that no more than three complainants may be present at one time;

(ii) the complainants' counsel, if applicable;

(iii) the respondent;

(iv) the respondent's counsel, if applicable;

(v) members of the commission;

(vi) staff to the commission;

(vii) a witness, while testifying before the commission; and

(viii) necessary security personnel.

(b) The complainants, respondent, and counsel for a complainant or respondent may be excluded from a portion of the meeting when the commission discusses administrative, procedural, legal, or evidentiary issues by:

(i) the order of the chair, subject to override as provided in Section 63A-14-703; or

(ii) a majority vote of the commission.

(c) When the commission deliberates at the conclusion of presentation of testimony and evidence, the commission shall ensure that those deliberations are closed to all persons except for the members of the commission and commission staff.

(5) If a majority of the commission determines that a continuance is necessary to obtain further evidence and testimony, accommodate administrative needs, or accommodate the attendance of commission members, witnesses, or a party, the commission may:

(a) after notice to the parties, adjourn and continue the meeting to a future date and time; and

(b) establish that future date and time by majority vote.

Enacted by Chapter 426, 2013 General Session

63A-14-603 Record -- Recording of meetings.

(1)

(a) Except as provided in Subsection (1)(b), an individual may not use a camera or other recording device in a meeting authorized by this chapter.

(b) The commission shall keep an audio or video recording of all portions of each meeting authorized by this part.

(c) If the commission elects, by a majority vote, to release in a public meeting the commission's finding that an allegation in the complaint has merit, the commission may, upon a majority vote of the commission, open the public meeting to cameras or other recording devices.

(2) In addition to the recording required in Subsection (1)(b), the chair shall ensure that a record of the meeting is made, that includes:

(a) official minutes taken during the meeting, if any;

(b) copies of all documents or other items admitted into evidence by the commission;

(c) copies of any documents or written orders or rulings issued by the chair or the commission; and
(d) any other information that a majority of the commission or the chair directs.
(3) Except for a finding prepared by the commission that is classified as public under Section 63A-14-605, any recording, testimony, evidence, or other record of a meeting authorized by this chapter is a private record under Section 63G-2-302 and may not be disclosed.

Enacted by Chapter 426, 2013 General Session

63A-14-604 Process for making a decision -- Deliberations.
(1)
(a) After each party presents a closing argument, the commission shall, at the direction of the chair, begin private deliberations.
(b) The deliberations described in Subsection (1)(a) may be held:
(i) immediately after conclusion of the closing arguments; or
(ii) at a future meeting of the commission, on a date and time determined by a majority of the members of the commission.
(2)
(a) The chair shall conduct the deliberations.
(b) Upon a motion made by a commission member, the commission may exclude commission staff from all or a portion of the deliberations by a majority vote of the commission.
(3)
(a) During deliberations, for each allegation reviewed by the commission, each member shall determine and cast a vote stating whether the allegation is:
(i) proved, by clear and convincing evidence, to have merit; or
(ii) not proved to have merit.
(b) A verbal roll call vote shall be taken on each allegation and each member's vote shall be recorded.
(4)
(a) An allegation is determined to not have merit unless four of the five members of the commission vote that the allegation has merit.
(b) An allegation that is not determined to have merit is dismissed.
(5)
(a) Before issuing an order or a finding under Section 63A-14-605, the commission may, upon a majority vote, reconsider and hold a new vote on an allegation.
(b) A motion to reconsider a vote may only be made by a member of the commission who voted in favor of the vote to be reconsidered.
(6) At the conclusion of deliberations, the commission shall prepare an order or a finding in accordance with Section 63A-14-605.
(7) The commission may not find that an allegation has merit if the allegation is based on an act by an individual under the authority of the executive branch elected official, unless the commission finds, by clear and convincing evidence, that the executive branch elected official:
(a) encouraged, condoned, or ordered the act;
(b)
(i) before the individual engaged in the act, knew or should have known that the individual was likely to engage in the act; and
(ii) failed to take appropriate action to prevent the act;
(c)

(i) while the individual engaged in the act, knew or should have known that the individual was engaging in the act; and
(ii) failed to take appropriate action to stop the act; or
(d)
(i) after the individual engaged in the act, knew or should have known that the individual engaged in the act; and
(ii) failed to take appropriate action in response to the act.
(8) The commission may not find that an allegation has merit if the allegation is based on the failure of an individual under the authority of the executive branch elected official to act, unless the commission finds, by clear and convincing evidence, that the executive branch elected official:
(a) encouraged, condoned, or ordered the failure to act;
(b)
(i) before the individual failed to act, knew or should have known that the individual was likely to fail to act; and
(ii) failed to take appropriate action to prevent the failure to act;
(c)
(i) while the individual was failing to act, knew or should have known that the individual was failing to act; and
(ii) failed to take appropriate action to prevent the failure to act; or
(d)
(i) after the individual failed to act, knew or should have known that the individual failed to act; and
(ii) failed to take appropriate action in response to the failure to act.

Amended by Chapter 461, 2018 General Session

63A-14-605 Order or finding of merit by the commission.
(1) If the commission determines that all allegations in the complaint are without merit, the commission shall:
(a) issue and enter into the record an order that the complaint is dismissed because no allegations in the complaint were found to have merit;
(b) classify all recordings, testimony, evidence, orders, findings, and other records directly relating to the meetings authorized by this part as private records under Section 63G-2-302;
(c) provide notice of the determination, in a manner determined by a majority vote of the commission, to:
(i) the respondent; and
(ii) the first complainant named on the complaint; and
(d) provide notice to each person named in Subsection (1)(c) that, under the provisions of Section 63A-14-403 and other provisions of this chapter, a person who discloses the findings of the commission in violation of any provision of this chapter is in contempt of the commission and is subject to penalties for contempt.
(2) If the commission determines that one or more of the allegations in the complaint have merit, the commission shall:
(a) if one or more allegations were not found to have merit, enter into the record an order dismissing the allegations that were found not to have merit;
(b) within 30 business days after the day on which the commission makes the determination, prepare a written finding, for submission to the Legislature, that:

(i) lists the name of each complainant;
(ii) lists the name of the respondent;
(iii) states the date of the finding;
(iv) for each allegation that was found to have merit:
(A) describes the high crime, misdemeanor, or malfeasance in office allegedly committed by the respondent;
(B) states the number and names of commission members who voted that the allegation has merit and the number and names of commission members who voted that the allegation does not have merit;
(C) subject to Subsection (3), at the option of those members voting that the allegation has merit, includes a statement by one or all of those members stating the reasons that the members voted that the allegation has merit; and
(D) subject to Subsection (3), at the option of those members who voted that the allegation does not have merit, includes a statement by one or all of those members stating the reasons that the members voted that the allegation does not have merit;
(v) contains any general statement that is adopted for inclusion in the finding by a majority of the members of the commission;
(vi) describes the allegations found by the commission to have merit;
(vii) states the name of each member of the commission; and
(viii) is signed by each member of the commission;
(c) direct staff to publicly release the finding, the complaint, and the response, subject to the redaction of any allegations that were dismissed; and
(d) classify all other recordings, testimony, evidence, orders, findings, and other records directly relating to the meetings authorized by this chapter as private records under Section 63G-2-302.
(3) A statement described in Subsection (2)(b)(iv)(C) or (D) may not cite specific evidence, specific testimony, or specific witnesses.
(4) The commission shall ensure that, within five business days after the day on which the commission finishes preparing the written finding described in Subsection (2)(b):
(a) the complaint and the response are redacted to remove references to the allegations found by the commission to be without merit;
(b) a copy of the finding is made publicly available and provided to:
(i) the respondent;
(ii) the first complainant named on the complaint;
(iii) the speaker of the House of Representatives;
(iv) the president of the Senate; and
(v) the governor; and
(c) the following documents are made publicly available and are provided to the speaker of the House of Representatives and the president of the Senate:
(i) a cover letter generally describing the allegations in the edited complaint that are found by the commission to have merit;
(ii) a copy of the edited complaint;
(iii) a copy of the edited response; and
(iv) a copy of the finding.

Enacted by Chapter 426, 2013 General Session

63A-14-606 Comments on complaint under review by Legislature.

(1) Except as provided in Subsection (2), while a complaint is under review by the Legislature, a member of the commission may not comment publicly or privately about the commission's decision, reasoning, or other matters relating to the ethics complaint, but may provide or refer a questioner to the commission's written finding.
(2) Subsection (1) does not prohibit statements made:
(a) to an individual authorized by the Legislature to conduct an investigation for the purpose of assisting the Legislature in conducting proceedings related to impeachment or removal from office;
(b) to a legislative committee, the House, or the Senate in relation to proceedings for impeachment or trial of impeachment; or
(c) as part of a criminal investigation.

Enacted by Chapter 426, 2013 General Session

Part 7
General Provisions Governing Hearings on Ethics Complaints

63A-14-701 Title.
This part is known as "General Provisions Governing Hearings on Ethics Complaints."

Enacted by Chapter 426, 2013 General Session

63A-14-702 General procedures for conducting a hearing on an ethics complaint.
(1) In conducting a hearing on a complaint, the commission shall comply with the following process in the order specified:
(a) introduction and instructions for procedure and process, at the discretion of the chair;
(b) procedural motions, adoption of evidentiary standards, or other general matters;
(c) complainants' opening argument, to be presented by a complainant or complainants' counsel;
(d) complainants' presentation of evidence and witnesses in support of allegations in the complaint;
(e) consideration of motions to dismiss the complaint or motions for a directed verdict, as applicable;
(f) respondent's opening argument, to be presented by the respondent or respondent's counsel;
(g) respondent's presentation of evidence and witnesses refuting the allegations in the complaint;
(h) presentation of rebuttal evidence and witnesses by the complainants, at the discretion of the chair;
(i) presentation of rebuttal evidence and witnesses by the respondent, at the discretion of the chair;
(j) complainants' closing argument, to be presented by a complainant or complainants' counsel;
(k) respondent's closing argument, to be presented by the respondent or respondent's counsel;
(l) deliberations by the commission; and
(m) adoption of the commission's findings.
(2) The commission may, in extraordinary circumstances, and consistent with due process considerations, vary the order described in Subsection (1) by majority vote and by providing notice to the parties.

(3) In addition to witnesses or evidence subpoenaed at the request of a complainant or a respondent, the chair or the commission may, consistent with due process considerations, subpoena and schedule the examination of witnesses or evidence that the chair or the commission determines will assist the commission in making a determination on the merits of the complaint.

Enacted by Chapter 426, 2013 General Session

63A-14-703 Chair as presiding judge.

(1) Except as expressly provided otherwise in this chapter, the chair is vested with the power to direct the commission during meetings authorized by this chapter.
(2) Except as otherwise provided in this chapter, the commission may overrule a decision of the chair if:
  (a) a member of the commission:
    (i) states that the member desires to overrule the decision of the chair; and
    (ii) states the basis for the member's objection to the decision of the chair; and
  (b) a majority of the commission votes to overrule the decision of the chair.
(3) The chair may set time limitations on any part of a meeting authorized by this chapter.

Enacted by Chapter 426, 2013 General Session

63A-14-704 Subpoena powers.

(1) For all proceedings authorized by this chapter, the commission may issue a subpoena to:
  (a) require the attendance of a witness; or
  (b) direct the production of evidence.
(2) The commission shall issue a subpoena under this section:
  (a) as required under Section 63A-14-706;
  (b) at the direction of the chair, if the chair determines that the testimony or evidence is relevant to the review of a complaint; or
  (c) upon a vote of a majority of the commission members.

Enacted by Chapter 426, 2013 General Session

63A-14-705 Contempt of the commission -- Enforcement.

(1) Except as provided in Subsection (9), the following actions constitute contempt of the commission:
  (a) disobedience to a direction of the commission or the chair in relation to actions and proceedings under this chapter;
  (b) failure to answer a question during a commission meeting when directed to answer a question by:
    (i) the chair, unless the direction is overridden by the commission under Section 63A-14-703; or
    (ii) a majority of the members of the commission;
  (c) failure to comply with a subpoena or other order issued under the authority of this chapter;
  (d) violation of the provisions of Subsection 63A-14-403(1);
  (e) violation of the communication provisions described in Section 63A-14-707;
  (f) violation of a request to comply with a provision of this chapter by the chair or a majority of the members of the commission; or
  (g) any other ground that is specified in statute or recognized at common law.

(2) The following persons may authorize an enforcement action against a person in contempt of the commission under the provisions of this chapter:
  (a) the chair, subject to the provisions of Section 63A-14-703; or
  (b) a majority of the members of the commission;
(3) If a person that is the subject of a subpoena issued under this chapter fails to comply with the subpoena, refuses to testify to a matter upon which the person may be lawfully interrogated, or is otherwise in contempt of the commission, the commission or the chair may:
  (a) file in district court a motion for an order to compel obedience to a subpoena or a lawful order of the commission or the chair;
  (b) file in district court a motion for an order to show cause why the penalties established in Title 78B, Chapter 6, Part 3, Contempt, should not be imposed upon the person for contempt of the commission; or
  (c) pursue other remedies against a person in contempt of the commission.
(4) The court shall expedite the hearing and decision on a motion described in Subsection (3).
(5) A court may:
  (a) order the person named in the subpoena, or subject to an order, to comply with the subpoena or order; or
  (b) impose any penalties authorized by Title 78B, Chapter 6, Part 3, Contempt, upon the person named in the subpoena, subject to the order, or otherwise held in contempt of the commission.
(6)
  (a) If a subpoena issued under this chapter requires the production of accounts, books, papers, documents, or other tangible items, the person to whom the subpoena is directed may petition a district court to quash or modify the subpoena at or before the time specified in the subpoena for compliance.
  (b) The commission or the chair may respond to a motion to quash or modify a subpoena by taking an action described in Subsection (3).
  (c) If the court finds that a subpoena requiring the production of accounts, books, papers, documents, or other tangible items is unreasonable or oppressive, the court may quash or modify the subpoena.
(7) Nothing in this section prevents the commission or the chair from seeking an extraordinary writ to remedy contempt of the commission.
(8) A party aggrieved by a decision of a court under this section may appeal that action directly to the Utah Supreme Court.
(9) An individual is not in contempt of the commission if the person's disobedience or failure to comply with a provision of Subsection (1) is due to a valid invocation of the person's Fifth Amendment right against self-incrimination.

Enacted by Chapter 426, 2013 General Session

63A-14-706 Testimony and examination of witnesses -- Oath -- Procedure -- Contempt.
(1) The chair shall ensure that each witness listed in a complaint and response is subpoenaed for appearance at the hearing unless:
  (a) the witness is unable to be properly identified or located; or
  (b) service is otherwise determined to be impracticable.
(2) The chair shall determine the scheduling and order of witnesses and presentation of evidence.
(3) The commission may, by majority vote:
  (a) overrule the chair's decision not to subpoena a witness under Subsection (1);

(b) modify the chair's determination on the scheduling and order of witnesses, and the presentation of evidence, under Subsection (2);
(c) decline to hear or call a witness who is requested by a complainant or a respondent;
(d) decline to review or consider evidence submitted in relation to an ethics complaint; or
(e) request and subpoena witnesses or evidence according to the procedures of Section 63A-14-704.

(4)
(a) Each witness shall testify under oath.
(b) The chair or the chair's designee shall administer the oath to each witness.

(5) After the oath is administered to a witness, the chair shall direct testimony as follows:
(a) allow the party that called the witness, or that party's counsel, to question the witness;
(b) allow the opposing party, or the opposing party's counsel, to cross-examine the witness;
(c) allow additional questioning by a party or a party's counsel as appropriate;
(d) give commission members the opportunity to question the witness; and
(e) as appropriate, allow further examination of the witness by the commission, or the parties or their counsel.

(6)
(a) If a witness, a party, or a party's counsel objects to a question, the chair shall:
(i) direct the witness to answer; or
(ii) rule that the witness is not required to answer the question.
(b) If a witness declines to answer a question after the chair or a majority of the commission determines that the witness is required to answer the question, the witness may be held in contempt in accordance with the provisions of Section 63A-14-705.

(7)
(a) The chair or a majority of the members of the commission may direct a witness to furnish any relevant evidence for consideration if the witness brings the material voluntarily or was required to bring the material by subpoena.
(b) If a witness declines to provide evidence in response to a subpoena, the witness may be held in contempt under Section 63A-14-705.

Enacted by Chapter 426, 2013 General Session

63A-14-707 Communications of commission members.

(1) As used in this section, "third party" means a person who is not a member of the commission or staff to the commission.

(2) While a complaint is under review by the commission, a member of the commission may not initiate, engage in, or consider any communications concerning the complaint with a third party unless:
(a) the communication is expressly permitted under the procedures established by this chapter; or
(b) the communication is made by the third party, in writing, simultaneously to:
(i) all members of the commission; and
(ii) a staff member of the commission.

(3) While the commission is reviewing a complaint under this chapter, a commission member may communicate outside of the meetings or deliberations with another member of, or staff to, the commission, if the member's communication does not materially compromise the member's responsibility to independently review and make decisions in relation to the complaint.

Enacted by Chapter 426, 2013 General Session

63A-14-708 Attorney fees and costs.

(1) A complainant:
  (a) may, but is not required to, retain legal representation during the complaint review process; and
  (b) is responsible for payment of the complainant's attorney fees and costs incurred.
(2) A respondent:
  (a) may, but is not required to, retain legal representation during the complaint review process; and
  (b) except as provided in Subsection (3), is responsible for payment of the respondent's attorney fees and costs incurred.
(3)
  (a) If the commission determines that all allegations in the complaint are without merit, the respondent may file a request with the Executive Appropriations Committee of the Legislature for the payment of reasonable attorney fees and costs for legal representation during the complaint review process.
  (b) If the Executive Appropriations Committee of the Legislature receives a request described in Subsection (3)(a), the Legislature may appropriate money to reimburse the respondent for some or all of the reasonable attorney fees and costs described in Subsection (3)(a).
(4) An attorney who participates in a hearing before the commission shall comply with:
  (a) the Rules of Professional Conduct established by the Utah Supreme Court;
  (b) the procedures and requirements of this chapter; and
  (c) the directions of the chair and the commission.
(5) A violation of Subsection (4) may constitute:
  (a) contempt of the commission under Section 63A-14-705; or
  (b) a violation of the Rules of Professional Conduct, subject to enforcement by the Utah State Bar.

Amended by Chapter 432, 2019 General Session

Chapter 15
Political Subdivisions Ethics Review Commission

Part 1
General Provisions

63A-15-101 Title.

This chapter is known as "Political Subdivisions Ethics Review Commission."

Renumbered and Amended by Chapter 461, 2018 General Session

63A-15-102 Definitions.

(1) "Commission" means the Political Subdivisions Ethics Review Commission established in Section 63A-15-201.

(2) "Complainant" means a person who files a complaint in accordance with Section 63A-15-501.
(3) "Ethics violation" means a violation of:
(a) Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act;
(b) Title 17, Chapter 70, Part 5, Disclosure Duties Applicable to All County Officers; or
(c) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.
(4) "Local political subdivision ethics commission" means an ethics commission established by a political subdivision within the political subdivision or with another political subdivision by interlocal agreement in accordance with Section 63A-15-103.
(5) "Political subdivision" means a county, municipality, school district, community reinvestment agency, special district, special service district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, a local building authority, or any other governmental subdivision or public corporation.
(6)
(a) "Political subdivision employee" means a person who is:
(i)
(A) in a municipality, employed as a city manager or non-elected chief executive on a full or part-time basis; or
(B) employed as the non-elected chief executive by a political subdivision other than a municipality on a full or part-time basis; and
(ii) subject to:
(A) Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act;
(B) Title 17, Chapter 70, Part 5, Disclosure Duties Applicable to All County Officers; or
(C) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.
(b) "Political subdivision employee" does not include:
(i) a person who is a political subdivision officer;
(ii) an employee of a state entity; or
(iii) a legislative employee as defined in Section 67-16-3.
(7) "Political subdivision governing body" means:
(a) for a county, the county legislative body as defined in Section 68-3-12.5;
(b) for a municipality, the council of the city or town;
(c) for a school district, the local board of education described in Section 53G-4-201;
(d) for a community reinvestment agency, the agency board described in Section 17C-1-203;
(e) for a special district, the board of trustees described in Section 17B-1-301;
(f) for a special service district:
(i) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or
(ii) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301;
(g) for an entity created by an interlocal agreement, the governing body of an interlocal entity, as defined in Section 11-13-103;
(h) for a local building authority, the governing body, as defined in Section 17D-2-102, that creates the local building authority; or
(i) for any other governmental subdivision or public corporation, the board or other body authorized to make executive and management decisions for the subdivision or public corporation.
(8)
(a) "Political subdivision officer" means a person elected in a political subdivision who is subject to:

(i) Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act;
(ii) Title 17, Chapter 70, Part 5, Disclosure Duties Applicable to All County Officers; or
(iii) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.
(b) "Political subdivision officer" does not include:
(i) a person elected or appointed to a state entity;
(ii) the governor;
(iii) the lieutenant governor;
(iv) a member or member-elect of either house of the Legislature; or
(v) a member of Utah's congressional delegation.
(9) "Respondent" means a person who files a response in accordance with Section 63A-15-604.

Amended by Chapter 17, 2025 Special Session 1

63A-15-103 Local ethics commission permitted -- Filing requirements.
(1) A political subdivision, other than a municipality described in Section 10-3-1311, a county described in Section 17-70-511, or a school district may establish a local political subdivision ethics commission within the political subdivision to review a complaint against a political subdivision officer or employee subject to Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.
(2) A political subdivision other than a school district may enter into an interlocal agreement with another political subdivision, in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, to establish a local political subdivision ethics commission to review a complaint against a political subdivision officer or employee subject to Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.
(3)
(a) A person filing a complaint for an ethics violation of Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act, shall file the complaint with:
(i) a local political subdivision ethics commission, if the political subdivision has established a local political subdivision ethics commission under Subsection (1) or (2); or
(ii) the commission if the political subdivision has not established a local political subdivision ethics commission or is a school district.
(b) A political subdivision that receives a complaint described in Subsection (3)(a) may:
(i) accept the complaint if the political subdivision has established a local political subdivision ethics commission in accordance with Subsection (1) or (2); or
(ii) forward the complaint to the commission:
(A) regardless of whether the political subdivision has established a local political subdivision ethics commission;
(B) if the political subdivision has not established a local political subdivision ethics commission; or
(C) if the complaint is regarding a member of a local school board as defined in Section 53E-1-102.

Amended by Chapter 17, 2025 Special Session 1

Part 2
Political Subdivisions Ethics Review Commission

63A-15-201 Commission established -- Membership.

(1) There is established a Political Subdivisions Ethics Review Commission.

(2) The commission is composed of seven individuals, each of whom is registered to vote in this state and appointed by the governor with the advice and consent of the Senate, as follows:

(a) one member who has served, but no longer serves, as a judge of a court of record in this state;

(b) one member who has served as a mayor or municipal council member no more recently than four years before the date of appointment;

(c) one member who has served as a member of a local board of education no more recently than four years before the date of appointment;

(d) two members who are lay persons; and

(e) two members, each of whom is one of the following:

(i) a municipal mayor no more recently than four years before the date of appointment;

(ii) a municipal council member no more recently than four years before the date of appointment;

(iii) a county mayor no more recently than four years before the date of appointment;

(iv) a county commissioner no more recently than four years before the date of appointment;

(v) a special service district administrative control board member no more recently than four years before the date of appointment;

(vi) a special district board of trustees member no more recently than four years before the date of appointment; or

(vii) a judge who has served, but no longer serves, as a judge of a court of record in this state.

(3)

(a) A member of the commission may not, during the member's term of office on the commission, act or serve as:

(i) a political subdivision officer;

(ii) a political subdivision employee;

(iii) an agency head as defined in Section 67-16-3;

(iv) a lobbyist as defined in Section 36-11-102; or

(v) a principal as defined in Section 36-11-102.

(b) In addition to the seven members described in Subsection (2), the governor shall, with the advice and consent of the Senate, appoint one individual as an alternate member of the commission who:

(i) may be a lay person;

(ii) shall be registered to vote in the state; and

(iii) complies with the requirements described in Subsection (3)(a).

(c) The alternate member described in Subsection (3)(b):

(i) shall serve as a member of the commission in the place of one of the seven members described in Subsection (2) if that member is temporarily unable or unavailable to participate in a commission function or is disqualified under Section 63A-15-303; and

(ii) may not cast a vote on the commission unless the alternate member is serving in the capacity described in Subsection (3)(c)(i).

(4)

(a)

(i) Except as provided in Subsection (4)(a)(ii), each member of the commission shall serve a four-year term.

(ii) When appointing the initial members upon formation of the commission, a member described in Subsections (2)(b) through (d) shall be appointed to a two-year term so that approximately half of the commission is appointed every two years.

(b)

(i) When a vacancy occurs in the commission's membership for any reason, a replacement member shall be appointed for the unexpired term of the vacating member using the procedures and requirements described in Subsection (2) or (3)(b), as applicable.

(ii) For the purposes of this section, an appointment for an unexpired term of a vacating member is not considered a full term.

(c) A member may not be appointed to serve for more than two full terms, whether those terms are two or four years.

(d) A member of the commission may resign from the commission by giving one month's written notice of the resignation to the governor.

(e) The governor shall remove a member from the commission if the member:

(i) is convicted of, or enters a plea of guilty to, a crime involving moral turpitude;

(ii) enters a plea of no contest or a plea in abeyance to a crime involving moral turpitude; or

(iii) fails to meet the qualifications of office as provided in this section.

(f)

(i) If a commission member is accused of wrongdoing in a complaint, or if a commission member has a conflict of interest in relation to a matter before the commission:

(A) the alternate member described in Subsection (3)(b) shall serve in the member's place for the purposes of reviewing the complaint; or

(B) if the alternate member has already taken the place of another commission member or is otherwise not available, the commission shall appoint another individual to temporarily serve in the member's place for the purposes of reviewing the complaint.

(ii) An individual appointed by the commission under Subsection (4)(f)(i)(B):

(A) is not required to be confirmed by the Senate;

(B) may be a lay person;

(C) shall be registered to vote in the state; and

(D) shall comply with Subsection (3)(a).

(5)

(a) Except as provided in Subsection (5)(b)(i), a member of the commission may not receive compensation or benefits for the member's service.

(b)

(i) A member may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) A member may decline to receive per diem and expenses for the member's service.

(6) The commission members shall, by a majority vote, elect a commission chair from among the commission members.

Amended by Chapter 529, 2024 General Session

63A-15-202 Meetings -- Staff -- Legal counsel -- Additional appropriations.

(1) The commission shall meet for the purpose of reviewing an ethics complaint when:

(a) except otherwise expressly provided in this chapter, called to meet at the discretion of the chair; or

(b) a majority of members agree to meet.

(2) A majority of the commission is a quorum.
(3)
(a) The commission shall prepare, on an annual basis, a summary data report that contains:
(i) a general description of the activities of the commission during the past year;
(ii) the number of ethics complaints filed with the commission;
(iii) the number of ethics complaints dismissed in accordance with Section 63A-15-602;
(iv) the number of ethics complaints reviewed by the commission in accordance with Section 63A-15-701;
(v) an executive summary of each complaint review in accordance with Section 63A-15-701; and
(vi) an accounting of the commission's budget and expenditures.
(b) The commission shall submit the summary data report to the governor on an annual basis.
(c) The summary data report shall be a public record.
(4)
(a) The commission shall employ staff at a level that is reasonable to assist the commission in performing its duties as established in this chapter.
(b) Staff for the commission may not perform services for a political subdivision.
(c) A person employed as staff for the commission may be the same person employed as staff for the Independent Legislative Ethics Commission, if the staff ensures that proper protections are in place to preserve the confidentiality to both bodies and to avoid a conflict of interest.
(5) A meeting held by the commission is subject to Title 52, Chapter 4, Open and Public Meetings Act, unless otherwise provided.
(6) The commission:
(a) is an independent entity established within the department for budgetary and general administrative purposes only;
(b) is not under the direction or control of the department, the executive director, or any other officer or employee of the department;
(c) shall employ a director to provide administrative support to the commission and to assist the commission in fulfilling the commission's duties;
(d) may employ additional staff, to work under the direction of the director;
(e) shall contract with private legal counsel to provide legal services to the commission, as needed; and
(f) may, in consultation with the Office of the Legislative Fiscal Analyst, request supplemental appropriations to pay the costs of legal fees and other staffing needs that exceed the commission's budget due to the number or complexity of the ethics complaints filed with or considered by the commission in a fiscal year.

Renumbered and Amended by Chapter 461, 2018 General Session

Part 3
General Powers and Procedures

63A-15-301 Authority to review complaint -- Grounds for complaint -- Limitations on filings.
(1) Subject to the requirements of this chapter and Section 10-3-1311 or 17-70-511, the commission is authorized to review an ethics complaint against a political subdivision officer or employee if the complaint alleges:

(a) if the applicable political subdivision is a municipality, an ethics violation of Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act by:
(i) a city manager or non-elected chief executive; or
(ii) an elected officer, as defined in Section 10-3-1303;
(b) if the applicable political subdivision is a county, an ethics violation of Title 17, Chapter 70, Part 5, Disclosure Duties Applicable to All County Officers by:
(i) an appointed officer, as defined in Section 17-70-501;
(ii) an elected officer, as defined in Section 17-70-501; or
(iii) an employee subject to Title 17, Chapter 70, Part 5, Disclosure Duties Applicable to All County Officers; or
(c) for a political subdivision officer or employee other than a municipal officer or employee described in Subsection (1)(a) or a county officer or employee described in Subsection (1)(b), an ethics violation of Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.
(2) A complaint described in Subsection (1) shall be filed in accordance with the time limit provisions, if any, of the applicable part or chapter.
(3)
(a) A complaint may not contain an allegation if that allegation and the general facts and circumstances supporting that allegation have been previously reviewed by a municipal ethics commission established under Section 10-3-1311, a county ethics commission established under Section 17-70-511, or a local political subdivision ethics commission established under Section 63A-15-103, as applicable, or the commission unless:
(i) the allegation was previously reviewed and dismissed by the commission under Section 63A-15-602 or 63A-15-701;
(ii) the allegation is accompanied by material facts or circumstances supporting the allegation that were not raised or pled to the commission; and
(iii) the allegation and the general facts and circumstances supporting that allegation have only been reviewed by the commission in accordance with Section 63A-15-701 on one previous occasion.
(b) The commission may not review a complaint that is currently before:
(i) a municipal ethics commission established under Section 10-3-1311;
(ii) a county ethics commission established under Section 17-70-511; or
(iii) a local political subdivision ethics commission established under Section 63A-15-103.
(c) If an allegation in the complaint does not comply with the requirements of Subsection (3)(a) or (b), the allegation shall be summarily dismissed with prejudice by:
(i) the chair when reviewing the complaint under Section 63A-15-601; or
(ii) the commission, when reviewing the complaint under Section 63A-15-602 or 63A-15-701.
(4) A complaint against a political subdivision officer or employee may not allege a violation by the political subdivision officer or employee for an act by an individual under the authority of the political subdivision officer or employee, unless the complaint evidences that the political subdivision officer or employee:
(a) encouraged, condoned, or ordered the act;
(b)
(i) before the individual engaged in the act, knew or should have known that the individual was likely to engage in the act; and
(ii) failed to take appropriate action to prevent the act;
(c)
(i) while the individual engaged in the act, knew or should have known that the individual was engaging in the act; and

(ii) failed to take appropriate action to stop the act; or
(d)
(i) after the individual engaged in the act, knew or should have known that the individual engaged in the act; and
(ii) failed to take appropriate action in response to the act.
(5) A complaint against a political subdivision officer or employee may not allege a violation by the political subdivision officer or employee for an individual under the authority of the political subdivision officer or employee failing to act, unless the complaint evidences that the political subdivision officer or employee:
(a) encouraged, condoned, or ordered the failure to act;
(b)
(i) before the individual failed to act, knew or should have known that the individual was likely to fail to act; and
(ii) failed to take appropriate action to prevent the failure to act;
(c)
(i) while the individual was failing to act, knew or should have known that the individual was failing to act; and
(ii) failed to take appropriate action to prevent the failure to act; or
(d)
(i) after the individual failed to act, knew or should have known that the individual failed to act; and
(ii) failed to take appropriate action in response to the failure to act.

Amended by Chapter 17, 2025 Special Session 1

63A-15-302 General powers -- Jurisdiction.
(1) The commission has jurisdiction only over an individual who is a political subdivision officer or employee.
(2) The commission shall dismiss an ethics complaint if:
(a) the respondent resigns or is terminated from the political subdivision; or
(b) except as provided in Subsection (3):
(i) the respondent is charged with a criminal violation of:
(A) Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act;
(B) Title 17, Chapter 70, Part 5, Disclosure Duties Applicable to All County Officers; or
(C) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act; and
(ii) the facts and allegations presented in the ethics complaint assert the same or similar facts and allegations as those asserted in the criminal charges.
(3) If an ethics complaint asserts an ethics violation in addition to a criminal violation described in Subsection (2)(b), the commission shall:
(a) dismiss an allegation described in Subsection (2)(b)(ii); and
(b) proceed with any remaining allegation in the complaint.

Amended by Chapter 17, 2025 Special Session 1

63A-15-303 Motion to disqualify commission member for conflict of interest.
(1) A complainant may file a motion to disqualify one or more members of the commission from participating in proceedings relating to the complaint if the individual files the motion within 20 days after the later of:

(a) the day on which the individual files the ethics complaint; or
(b) the day on which the individual knew or should have known of the grounds upon which the motion is based.

(2) A respondent may file a motion to disqualify one or more members of the commission from participating in proceedings relating to the complaint if the respondent files the motion within 20 days after the later of:
(a) the day on which the respondent receives delivery of the complaint; or
(b) the day on which the respondent knew or should have known of the grounds upon which the motion is based.

(3) A motion filed under this section shall include:
(a) a statement that the members to whom the motion relates have a conflict of interest that, under the circumstances, would lead a reasonable person to question the impartiality of the members;
(b) a detailed description of the grounds supporting the statement described in Subsection (3)(a); and
(c) a statement that the motion is filed in good faith, supported by an affidavit or declaration under penalty of Title 78B, Chapter 18a, Uniform Unsworn Declarations Act, stating that the motion and all accompanying statements and documents are true and correct to the best of the complainant's or respondent's knowledge.

(4) A party may not file more than one motion to disqualify, unless the second or subsequent motion:
(a) is based on grounds of which the party was not aware, and could not have been aware, at the time of the earlier motion; and
(b) is accompanied by a statement, included in the affidavit or declaration described in Subsection (3)(c), explaining how and when the party first became aware of the grounds described in Subsection (4)(a).

(5) The commission shall dismiss a motion filed under this section, with prejudice, if the motion:
(a) is not timely filed; or
(b) does not comply with the requirements of this section.

(6) A member of the commission may:
(a) on the member's own motion, disqualify the member from participating in proceedings relating to a complaint if the member believes that the member has a conflict of interest that, under the circumstances, would lead a reasonable person to question the impartiality of the member; or
(b) ask the commission to disqualify another member of the commission if the member believes that the member has a conflict of interest that, under the circumstances, would lead a reasonable person to question the impartiality of the member.

(7)
(a) When a party files a motion under this section, or a when commission member makes a request under Subsection (6)(b), the commission member for whom disqualification is sought may make the initial determination regarding whether the commission member has a conflict of interest.
(b) If a commission member described in Subsection (7)(a) determines that the commission member has a conflict of interest, the commission member shall disqualify the commission member from participating in the matter.
(c) If a commission member described in Subsection (7)(a) determines that the commission member does not have a conflict of interest, or declines to make the determination, the

remainder of the commission shall, by majority vote, determine whether the commission member has a conflict of interest.

(d) A vote of the commission, under Subsection (7)(c), constitutes a final decision on the issue of a conflict of interest.

(8) In making a determination under Subsection (7)(c), the commission may:

(a) gather additional evidence;

(b) hear testimony; or

(c) request that the commission member who is the subject of the motion or request file an affidavit or declaration responding to questions posed by the commission.

Amended by Chapter 136, 2019 General Session

Part 4
Hearing on Ethics Complaint

63A-15-401 Hearing on ethics complaint -- General procedures.

(1) In conducting a hearing on a complaint in accordance with Part 7, Commission Review of Ethics Violation, the commission shall comply with the following process in the order specified:

(a) introduction and instructions for procedure and process, at the discretion of the chair;

(b) complainant's opening argument, to be presented by a complainant or complainant's counsel;

(c) complainant's presentation of evidence and witnesses in support of allegations in the complaint;

(d) consideration of motions to dismiss the complaint or motions for a finding of no cause, as applicable;

(e) respondent's opening argument, to be presented by the respondent or respondent's counsel;

(f) respondent's presentation of evidence and witnesses refuting allegations in the complaint;

(g) presentation of rebuttal evidence and witnesses by the complainant, at the discretion of the chair;

(h) presentation of rebuttal evidence and witnesses by the respondent, at the discretion of the chair;

(i) complainant's closing argument, to be presented by a complainant or complainant's counsel;

(j) respondent's closing argument, to be presented by the respondent or respondent's counsel;

(k) deliberations by the commission; and

(l) adoption of the commission's findings.

(2) The commission may, in extraordinary circumstances, vary the order contained in Subsection (1) by majority vote and by providing notice to the parties.

(3) The chair may schedule the examination of a witness or evidence subpoenaed at the request of the chair or the commission under Section 63A-15-403 at the chair's discretion.

Renumbered and Amended by Chapter 461, 2018 General Session

63A-15-402 Chair as presiding officer.

(1) Except as expressly provided otherwise in this chapter, the chair of the commission is vested with the power to direct the commission during meetings authorized by this chapter.

(2) Unless expressly prohibited from doing so under this chapter, the commission may overrule a decision of the chair by using the following procedure:

(a) If a member objects to a decision of the chair, that member may appeal the decision by stating:
(i) "I appeal the decision of the chair."; and
(ii) the basis for the objection.
(b) A motion described in Subsection (2)(a) is nondebatable.
(c) The chair shall direct a roll call vote to determine if the commission supports the decision of the chair.
(d) A majority vote of the commission is necessary to overrule the decision of the chair.
(3) The chair may set time limitations on any part of a meeting or hearing authorized by this chapter.

Renumbered and Amended by Chapter 461, 2018 General Session

63A-15-403 Subpoena powers.
(1) Except for a preliminary review described in Section 63A-15-602, for a proceeding authorized by this chapter, the commission may issue a subpoena to:
(a) require the attendance of a witness;
(b) direct the production of evidence; or
(c) require both the attendance of a witness and the production of evidence.
(2) The commission shall issue a subpoena:
(a) in accordance with Section 63A-15-405;
(b) at the direction of the commission chair, if the chair determines that the testimony or evidence is relevant to the review of a complaint under Part 7, Commission Review of Ethics Violation; or
(c) upon a vote of a majority of the commission members.
(3) If the commission issues a subpoena authorized under this section, the commission shall give a reasonable period of time for the person or entity to whom the subpoena is directed to petition a district court to quash or modify the subpoena before the time specified in the subpoena for compliance.

Renumbered and Amended by Chapter 461, 2018 General Session

63A-15-404 Contempt of the commission.
(1)
(a) The following actions constitute contempt of the commission in relation to actions and proceedings under this chapter:
(i) disobedience to a direction of the commission chair;
(ii) failure, without legal justification, to answer a question during a hearing when directed to do so by:
(A) the commission chair, unless the direction is overridden by the commission in accordance with Section 63A-15-402; or
(B) a majority of the commission;
(iii) failure to comply with a subpoena or other order issued under authority of this chapter;
(iv) violation of privacy provisions established by Section 63A-15-502;
(v) violation of the communication provisions established by Section 63A-15-407;
(vi) violation of a request to comply with a provision of this chapter by a chair or a majority of the members of the commission; or
(vii) any other ground that is specified in statute or recognized by common law.

(b) Because the purpose of the Fifth Amendment privilege not to incriminate oneself is to prevent prosecution for criminal action, it is improper for a witness to invoke the Fifth Amendment privilege if the witness cannot be prosecuted for the crime to which the witness's testimony relates.

(2)

(a) The following persons may authorize an enforcement action against a person in contempt of the commission under the provisions of this chapter:

(i) the commission chair, subject to the provisions of Section 63A-15-402; or

(ii) members of the commission, by means of a majority vote.

(b) In initiating and pursuing an action against an individual for contempt of the commission, the plaintiff shall comply with the procedures and requirements of Section 63A-15-405.

Renumbered and Amended by Chapter 461, 2018 General Session

63A-15-405 Order to compel -- Enforcement.

(1)

(a) When the subject of a subpoena issued in accordance with Section 63A-15-403 disobeys or fails to comply with the subpoena, or if a person appears before the commission pursuant to a subpoena and refuses to testify to a matter upon which the person may be lawfully interrogated, the commission may:

(i) file a motion for an order to compel obedience to the subpoena with the district court within the jurisdiction of the applicable political subdivision;

(ii) file, with the district court, a motion for an order to show cause why the penalties established in Title 78B, Chapter 6, Part 3, Contempt, should not be imposed upon the person named in the subpoena for contempt of the commission; or

(iii) pursue other remedies against persons in contempt of the commission.

(b)

(i) Upon receipt of a motion under this section, the court shall expedite the hearing and decision on the motion.

(ii) A court may:

(A) order the person named in the subpoena to comply with the subpoena; and

(B) impose any penalties authorized by Title 78B, Chapter 6, Part 3, Contempt, upon the person named in the subpoena for contempt of the commission.

(2)

(a) If a commission subpoena requires the production of accounts, books, papers, documents, or other tangible things, the person or entity to whom the subpoena is directed may petition a district court to quash or modify the subpoena at or before the time specified in the subpoena for compliance.

(b) The commission may respond to a motion to quash or modify the subpoena by pursuing any remedy authorized by Subsection (1).

(c) If the court finds that a commission subpoena requiring the production of accounts, books, papers, documents, or other tangible things is unreasonable or oppressive, the court may quash or modify the subpoena.

(3) Nothing in this section prevents the commission from seeking an extraordinary writ to remedy contempt of the commission.

(4) Any party aggrieved by a decision of a court under this section may appeal that action directly to the Utah Supreme Court.

Renumbered and Amended by Chapter 461, 2018 General Session

63A-15-406 Testimony and examination of witnesses -- Oath -- Procedure -- Contempt.

(1)
(a) The chair shall ensure that each witness listed in the complaint and response is subpoenaed for appearance at the hearing unless:
(i) the witness is unable to be properly identified or located; or
(ii) service is otherwise determined to be impracticable.
(b) The chair shall determine the scheduling and order of witnesses and presentation of evidence.
(c) The commission may, by majority vote:
(i) overrule the chair's decision not to subpoena a witness under Subsection (1)(a);
(ii) modify the chair's determination on the scheduling and order of witnesses under Subsection (1)(b);
(iii) decline to hear or call a witness that has been requested by the complainant or respondent;
(iv) decline to review or consider evidence submitted in relation to an ethics complaint; or
(v) request and subpoena witnesses or evidence according to the procedures of Section 63A-15-403.

(2)
(a) Each witness shall testify under oath.
(b) The chair or the chair's designee shall administer the oath to each witness.

(3) After the oath has been administered to the witness, the chair shall direct testimony as follows:
(a) allow the party that has called the witness, or that party's counsel, to question the witness;
(b) allow the opposing party, or that party's counsel, to cross-examine the witness;
(c) allow additional questioning by a party or a party's counsel as appropriate;
(d) give commission members the opportunity to question the witness; and
(e) as appropriate, allow further examination of the witness by the commission, or the parties or their counsel.

(4)
(a) If the witness, a party, or a party's counsel objects to a question, the chair shall:
(i) direct the witness to answer; or
(ii) rule that the witness is not required to answer the question.
(b) If the witness declines to answer a question after the chair or a majority of the commission determines that the witness is required to answer the question, the witness may be held in contempt as provided in Section 63A-15-404.

(5)
(a) The chair or a majority of the members of the commission may direct a witness to furnish any relevant evidence for consideration if the witness has brought the material voluntarily or has been required to bring it by subpoena.
(b) If the witness declines to provide evidence in response to a subpoena, the witness may be held in contempt as provided in Section 63A-15-404.

Renumbered and Amended by Chapter 461, 2018 General Session

63A-15-407 Communications of commission members.

(1) As used in this section, "third party" means a person who is not a member of the commission or staff to the commission.

(2) While a complaint is under review by the commission, a member of the commission may not initiate or consider any communications concerning the complaint with a third party unless:
(a) the communication is expressly permitted under the procedures established by this chapter; or
(b) the communication is made by the third party, in writing, simultaneously to:
(i) all members of the commission; and
(ii) a staff member of the commission.
(3) While the commission is reviewing a complaint under this chapter, a commission member may communicate outside of a meeting, hearing, or deliberation with another member of, or staff to, the commission, only if the member's communication does not materially compromise the member's responsibility to independently review and make decisions in relation to the complaint.

Renumbered and Amended by Chapter 461, 2018 General Session

63A-15-408 Attorney fees and costs.
(1) A person filing a complaint under this chapter:
(a) may, but is not required to, retain legal representation during the complaint review process; and
(b) is responsible for payment of complainant's attorney fees and costs incurred.
(2)
(a) A respondent against whom a complaint is filed under this chapter:
(i) may, but is not required to, retain legal representation during the complaint review process;
(ii) except as provided in Subsection (2)(a)(iii), is responsible for payment of the respondent's attorney fees and costs incurred; and
(iii) may be entitled to the provision of legal defense by the political subdivision in accordance with Section 63G-7-902.
(b) For purposes of Subsection (2)(a)(iii), a complaint filed against a respondent in accordance with this chapter shall constitute an action against a governmental employee in accordance with Section 63G-7-902.
(3)
(a) An attorney participating in a hearing before the commission shall comply with:
(i) the Rules of Professional Conduct established by the Utah Supreme Court;
(ii) the procedures and requirements of this chapter; and
(iii) the directions of the chair and commission.
(b) A violation of Subsection (3)(a) may constitute:
(i) contempt of the commission under Section 63A-15-404; or
(ii) a violation of the Rules of Professional Conduct subject to enforcement by the Utah State Bar.

Renumbered and Amended by Chapter 461, 2018 General Session

Part 5
Complaint of Ethics Violation

63A-15-501 Ethics complaints -- Who may file -- Form.

(1)
(a) Notwithstanding any other provision, the following may file a complaint, subject to the requirements of Subsections (1)(b) and (c) and Section 63A-15-301, against a political subdivision officer or employee:
(i) two or more registered voters who reside within the boundaries of a political subdivision;
(ii) two or more registered voters who pay a fee or tax to a political subdivision; or
(iii) one or more registered voters who reside within the boundaries of a political subdivision and one or more registered voters who pay a fee or tax to the political subdivision.
(b) A person described in Subsection (1)(a) may not file a complaint unless at least one person described in Subsection (1)(a)(i), (ii), or (iii) has actual knowledge of the facts and circumstances supporting the alleged ethics violation.
(c) A complainant may file a complaint only against an individual who, on the date that the complaint is filed, is serving as a political subdivision officer or is a political subdivision employee.
(2)
(a) The commission shall post, on the state's website, a conspicuous and clearly identified link to the name and address of an individual authorized to accept a complaint on behalf of the commission.
(b) A complainant shall file a complaint with the individual described in Subsection (2)(a).
(c) An individual may not file a complaint during the 60 calendar days immediately preceding:
(i) a regular primary election, if the accused political subdivision officer is a candidate in the primary election; or
(ii) a regular general election in which an accused political subdivision officer is a candidate, unless the accused political subdivision officer is unopposed in the election.
(3) A complainant shall ensure that each complaint filed under this section is in writing and contains the following information:
(a) the name and position of the political subdivision officer or employee alleged to be in violation;
(b) the name, address, and telephone number of each individual who is filing the complaint;
(c) a description of each alleged ethics violation, as applicable of:
(i) Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act;
(ii) Title 17, Chapter 70, Part 5, Disclosure Duties Applicable to All County Officers; or
(iii) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act;
(d) include for each alleged ethics violation:
(i) a reference to the section of the code alleged to have been violated;
(ii) the name of the complainant who has actual knowledge of the facts and circumstances supporting each allegation; and
(iii) with reasonable specificity, the facts and circumstances supporting each allegation, which shall be provided by:
(A) copies of official records or documentary evidence; or
(B) one or more affidavits that include the information required in Subsection (4);
(e) a list of the witnesses that a complainant wishes to have called, including for each witness:
(i) the name, address, and, if available, one or more telephone numbers of the witness;
(ii) a brief summary of the testimony to be provided by the witness; and
(iii) a specific description of any documents or evidence a complainant desires the witness to produce;
(f) a statement that each complainant:
(i) has reviewed the allegations contained in the complaint and the sworn statements and documents attached to the complaint;

(ii) believes that the complaint is submitted in good faith and not for any improper purpose such as for the purpose of harassing the respondent, causing unwarranted harm to the respondent's reputation, or causing unnecessary expenditure of public funds; and
(iii) believes the allegations contained in the complaint to be true and accurate; and
(g) the signature of each complainant.
(4) An affidavit described in Subsection (3)(d)(iii)(B) shall include:
(a) the name, address, and telephone number of the signer;
(b) a statement that the signer has actual knowledge of the facts and circumstances alleged in the affidavit;
(c) the facts and circumstances testified by the signer;
(d) a statement that the affidavit is believed to be true and correct and that false statements are subject to penalties of perjury; and
(e) the signature of the signer.

Amended by Chapter 17, 2025 Special Session 1

63A-15-502 Privacy of ethics complaint -- Contempt -- Enforcement of finding of contempt -- Dismissal.

(1)
(a) Except as otherwise provided in this chapter, a person, including a complainant, the respondent, a commission member, or staff to the commission, may not disclose the existence of a complaint, a response, nor any information concerning any alleged ethics violation that is the subject of a complaint.
(b) The restrictions in Subsection (1)(a) do not apply to:
(i) the respondent's voluntary disclosure of a finding by the commission that no allegations in a complaint were proved after that finding is issued by the commission under the procedures and requirements of Section 63A-15-602;
(ii) this disclosure of facts or allegations about potential criminal violations to a law enforcement authority;
(iii) a disclosure by a respondent that is made solely for the purpose of, and only to the extent necessary for, retaining counsel, conducting an interview, seeking evidence, or taking other action to prepare to defend against a complaint;
(iv) a communication between a commission member and the commission's attorney or a member of the commission's staff; or
(v) a disclosure to a person that is determined necessary, by a majority vote of the commission, to conduct the duties of the commission.
(2) When a person makes a disclosure under Subsection (1)(b)(iii) or (v), the person making the disclosure shall inform the person to whom the disclosure is made of the nondisclosure requirements described in this section.
(3) After the commission issues an order under Subsection 63A-15-704(2), the commission may disclose the portion of the complaint, a response, and other information relating to an alleged ethics violation that the commission determines is proved.
(4) A person who violates the provisions of Subsection (1)(a) is in contempt of the commission and proceedings may be initiated to enforce the finding of contempt using the procedures provided in Sections 63A-15-404 and 63A-15-405.
(5) If, before the commission issues an order in relation to an ethics complaint under Section 63A-15-704, the existence of the ethics complaint is publicly disclosed by a person other than the respondent, an agent of the respondent, or a person who learns of the complaint under

Subsection (1)(b)(iii) or (v), the commission shall summarily dismiss the complaint without prejudice.

Renumbered and Amended by Chapter 461, 2018 General Session

Part 6
Review of Complaint

63A-15-601 Review of ethics complaint for compliance with form requirements -- Independent requirements for complaint -- Notice.

(1) Within 10 business days after receipt of a complaint, the staff of the commission, in consultation with the chair of the commission, shall examine the complaint to determine if it is in compliance with Sections 63A-15-301 and 63A-15-501.

(2)

(a) If the chair determines that the complaint does not comply with Sections 63A-15-301 and 63A-15-501, the chair shall:

(i) return the complaint to the first complainant named on the complaint with:

(A) a statement detailing the reason for the non-compliance; and

(B) a copy of the applicable provisions in this chapter; and

(ii) notify the applicable political subdivision governing body that:

(A) a complaint was filed against an unidentified political subdivision officer or employee but was returned for non-compliance with this chapter; and

(B) the fact that a complaint was filed and returned shall be kept confidential until the commission submits its annual summary data report as required by Section 63A-15-202.

(b) If a complaint is returned for non-compliance with the requirements of this chapter, a complainant may file another complaint if the new complaint independently meets the requirements of Sections 63A-15-301 and 63A-15-501, including any requirements for timely filing.

(3) If the chair determines that the complaint complies with the requirements of this section, the chair shall:

(a) accept the complaint;

(b) notify each member of the commission that the complaint has been filed and accepted;

(c) notify the applicable political subdivision that:

(i) a complaint has been filed against an unidentified political subdivision officer or employee;

(ii) the identity of the political subdivision officer or employee and the allegations raised in the complaint are confidential pending the commission's preliminary review of the complaint; and

(iii) the fact that a complaint was filed shall be kept confidential until the commission publicly discloses the existence of the complaint via:

(A) notice of the commission's review of a complaint in accordance with Section 63A-15-701; or

(B) submission of the commission's annual summary data report as required in Section 63A-15-202; and

(d) promptly forward the complaint to the political subdivision officer or employee who is the subject of the ethics complaint via personal delivery or a delivery method that provides verification of receipt, together with a copy of this chapter and notice of the officer's or

employee's deadline for filing a response to the complaint if the complaint is not dismissed under Section 63A-15-602.

Renumbered and Amended by Chapter 461, 2018 General Session

63A-15-602 Preliminary review of complaint -- Standard of proof -- Notice.

(1)
(a) By no later than 10 calendar days after the day on which a complaint is accepted under Section 63A-15-601, the commission chair shall:
(i) schedule a commission meeting on a date no later than 60 calendar days after the date on which the commission accepts the complaint;
(ii) place the complaint on the agenda for consideration at the meeting;
(iii) provide a copy of the complaint to the members; and
(iv) provide notice of the date, time, and location of the meeting:
(A) to the respondent;
(B) the first complainant named in the complaint;
(C) each commission member; and
(D) in accordance with Section 52-4-202.
(b) The meeting described in Subsection (1)(a)(ii) is closed to the public in accordance with Section 52-4-204.

(2)
(a) At the meeting described in Subsection (1)(a)(i):
(i) the commission members shall review each allegation in the complaint;
(ii) the commission may not receive testimony, hear a motion from a party, or admit evidence; and
(iii) the chair shall conduct deliberations.
(b) The commission may, if necessary:
(i) request a formal response or affidavit from a respondent; and
(ii) review the response or affidavit at the meeting.
(c) Upon a motion made by a commission member, the commission may exclude commission staff from all or a portion of the deliberations by a majority vote.

(3)
(a) During deliberations, each commission member shall, for each allegation, determine:
(i) whether the facts alleged, if true, would be an ethics violation;
(ii) whether the complaint includes an affidavit from a person with firsthand knowledge of alleged facts described in Subsection (3)(a)(i); and
(iii) whether the complaint is frivolous or solely for a political purpose.
(b) A commission member shall vote to forward an allegation in a complaint for a final commission review in accordance with Part 7, Commission Review of Ethics Violation, if the commission member determines:
(i) an allegation, if true, would be an ethics violation;
(ii) the complaint contains an affidavit with firsthand knowledge of the allegation under Subsection (3)(a)(ii); and
(iii) the allegation is not frivolous or solely for a political purpose.

(4)
(a) A verbal roll call vote shall be taken on each allegation and each member's vote shall be recorded.

(b) The commission may not review an allegation for a final determination under Part 7, Commission Review of Ethics Violation, unless six of the seven members of the commission vote to review the allegation.

(5)

(a) An allegation that is not forwarded for a final determination is dismissed.

(b) Before the commission issues an order in accordance with this section, the commission may, upon a majority vote, reconsider and hold a new vote on an allegation.

(c) A motion to reconsider a vote may only be made by a member of the commission who voted that the allegation should not be forwarded for a final determination.

(6)

(a) If each allegation stated in a complaint is dismissed in accordance with this section, the commission shall:

(i) issue and enter into the record an order that the complaint is dismissed because no allegations, in accordance with this section, were forwarded for a final determination;

(ii) classify all recordings, testimony, evidence, orders, findings, and other records directly relating to the meetings authorized by this part as private records under Section 63G-2-302;

(iii) provide notice of the determination, in a manner determined by the chair, to:

(A) the respondent;

(B) the first complainant named on the complaint; and

(C) subject to Subsection (6)(b), the appropriate political subdivision; and

(iv) provide notice to each person or entity named in Subsections (6)(a)(iii)(A) through (C) that, under provisions of Section 63A-15-502 and other provisions of this chapter, a person who discloses the findings of the commission in violation of any provision of this chapter is in contempt of the commission and is subject to penalties for contempt.

(b) The notification to the appropriate political subdivision shall notify the political subdivision that:

(i) a complaint against an unidentified political subdivision officer or employee has been dismissed; and

(ii) the fact that a complaint was filed shall be kept confidential until the commission publicly discloses the existence of the complaint via submission of the commission's annual summary data report as required in Section 63A-15-202.

(7) If one or more of the allegations stated in a complaint are not dismissed in accordance with this section, the commission shall:

(a) issue and enter into the record:

(i) an order for each allegation that is dismissed, if any, because the allegation was not forwarded for a final determination; and

(ii) an order for further review under Part 7, Commission Review of Ethics Violation, of each allegation that is not dismissed;

(b) classify all recordings, orders, findings, and other records or documents directly relating to a meeting authorized by this section as private records under Section 63G-2-302;

(c) if an allegation was dismissed, provide notice of the determination for each allegation dismissed in a manner determined by the chair, to:

(i) the respondent;

(ii) the first complainant named on the complaint; and

(iii) subject to Subsection (8), the appropriate political subdivision; and

(d) provide notice to each person or entity named in Subsections (7)(c)(i) through (iii) that:

(i) under provisions of Section 63A-15-502 and other provisions of this chapter, a person who discloses the findings of the commission under this section in violation of any provision of this chapter is in contempt of the commission and is subject to penalties for contempt; and

(ii) the commission shall review the remaining allegations in the complaint at a meeting described in Section 63A-15-603 and in accordance with Part 7, Commission Review of Ethics Violation.

(8) The notification to the appropriate political subdivision shall notify the political subdivision that:

(a) an unspecified allegation in a complaint against an unidentified political subdivision officer or employee has been dismissed; and

(b) the fact that a complaint was filed shall be kept confidential until the commission publicly discloses the existence of the complaint in accordance with the provisions of this chapter.

(9) For a complaint described in Subsection (7), the commission members shall ensure that, within five business days after the day of the meeting described in Subsection (1)(a)(ii), the complaint is redacted to remove references to an allegation that is dismissed under this section.

(10) The chair shall ensure that a record of the meeting held under this section is kept in accordance with Section 63A-15-702.

Renumbered and Amended by Chapter 461, 2018 General Session

63A-15-603 Meeting of the commission to review a complaint -- Procedures.

By no later than 10 calendar days after the day on which a complaint is accepted under Section 63A-15-602 for further review, the commission chair shall:

(1) schedule a commission meeting on a date no later than 60 calendar days after the date on which the commission votes to forward a complaint for final determination in accordance with Section 63A-15-602;

(2) place the complaint on the agenda for consideration at the meeting described in Subsection (1);

(3) provide notice of the date, time, and location of the meeting:

(a) to:

(i) the members of the commission;

(ii) the first complainant named in the complaint; and

(iii) the respondent; and

(b) in accordance with Section 52-4-202; and

(4) provide a copy of the complaint or redacted complaint, as required in Section 63A-15-602, to each member of the commission.

Renumbered and Amended by Chapter 461, 2018 General Session

63A-15-604 Response to ethics complaint -- Filing -- Form.

(1) The political subdivision officer or employee who is the subject of the complaint may file a response to the complaint no later than 30 days after the day on which the officer or employee receives delivery of an order issued by the commission under Subsection 63A-15-602(7).

(2) The respondent shall file the response with the commission and ensure that the response is in writing and contains the following information:

(a) the name, address, and telephone number of the respondent;

(b) for each alleged ethics violation in the complaint:

(i) each affirmative defense asserted in response to the allegation, including a general description of each affirmative defense and the facts and circumstances supporting the defense to be provided by one or more affidavits, each of which shall comply with Subsection (4);

(ii) the facts and circumstances refuting the allegation, which shall be provided by:

(A) copies of official records or documentary evidence; or

(B) one or more affidavits, each of which shall comply with Subsection (4);
(c) a list of the witnesses that the respondent wishes to have called, including for each witness:
(i) the name, address, and, if available, telephone number of the witness;
(ii) a brief summary of the testimony to be provided by the witness; and
(iii) a specific description of any documents or evidence the respondent desires the witness to produce;
(d) a statement that the respondent:
(i) has reviewed the allegations contained in the complaint and the sworn statements and documents attached to the response; and
(ii) believes the contents of the response to be true and accurate; and
(e) the signature of the respondent.
(3) Promptly after receiving the response, the commission shall provide copies of the response to:
(a) each member of the commission; and
(b) the first named complainant on the complaint.
(4) An affidavit described in Subsection (2)(b)(i) or (2)(b)(ii)(B) shall include the following information:
(a) the name, address, and telephone number of the signer;
(b) a statement that the signer has actual knowledge of the facts and circumstances alleged in the affidavit;
(c) the facts and circumstances testified to by the signer;
(d) a statement that the affidavit is believed to be true and correct and that false statements are subject to penalties of perjury; and
(e) the signature of the signer.

Renumbered and Amended by Chapter 461, 2018 General Session

Part 7
Commission Review of Ethics Violation

63A-15-701 Commission review of ethics violation.
(1) The scope of a review by the commission is limited to an alleged ethics violation stated in a complaint that has not been previously dismissed under Section 63A-15-602.
(2)
(a) Before holding the meeting for review of the complaint, the commission chair may schedule a separate meeting of the commission for the purposes of:
(i) hearing motions or arguments from the parties, including hearing motions or arguments relating to dismissal of a complaint, admission of evidence, or procedures;
(ii) holding a vote of the commission, with or without the attendance of the parties, on procedural or commission business matters relating to a complaint; or
(iii) reviewing a complaint, with or without the attendance of the parties, to determine if the complaint should be dismissed in whole or in part, by means of a majority vote of the commission, because the complaint pleads facts or circumstances against a political subdivision officer or employee that have already been reviewed by, as provided in Section 63A-15-301, the commission, a municipal ethics commission established in accordance with Section 10-3-1311, a county ethics commission established in accordance with Section

17-70-511, or a local political subdivision ethics commission established in accordance with Section 63A-15-103.

(b) Notwithstanding Section 63A-15-603, the commission may, by a majority vote, change the date of the meeting for review of the complaint in order to accommodate:

(i) a meeting authorized under Subsection (2)(a); or

(ii) necessary scheduling requirements.

(3)

(a) The commission shall comply with the Utah Rules of Evidence except where the commission determines, by majority vote, that a rule is not compatible with the requirements of this chapter.

(b) The chair shall make rulings on admissibility of evidence consistent with the provisions of Section 63A-15-402.

(4)

(a) A meeting or hearing authorized in this part is open to the public except as provided in Section 52-4-204.

(b) The following individuals may be present during the presentation of testimony and evidence to the commission:

(i) the complainant;

(ii) the complainant's counsel, if applicable;

(iii) the respondent;

(iv) the respondent's counsel, if applicable;

(v) members of the commission;

(vi) staff to the commission;

(vii) a witness, while testifying before the commission; and

(viii) necessary security personnel.

(c) The commission may, in accordance with Section 52-4-204, close a meeting to:

(i) seek or obtain legal advice on legal, evidentiary, or procedural matters; or

(ii) conduct deliberations to reach a decision on the complaint.

(5) If a majority of the commission determines that a continuance is necessary to obtain further evidence and testimony, to accommodate administrative needs, or to accommodate the attendance of commission members, witnesses, or a party, the commission shall:

(a) adjourn and continue the meeting to a future date and time after notice to the parties; and

(b) establish that future date and time by majority vote.

(6) A record, as defined in Section 63G-2-103, created by the commission under this part, reviewed by the commission under this part, or received by the commission under this part, is a public record, as defined in Section 63G-2-103.

Amended by Chapter 17, 2025 Special Session 1

63A-15-702 Record -- Recording of meetings.

(1)

(a) Except as provided in Subsection (1)(b), an individual may not use a camera or other recording device in a meeting authorized by this part.

(b)

(i) The commission shall keep an audio or video recording of all portions of each meeting authorized by this part.

(ii) The commission may, by a majority vote of the commission, permit a camera or other recording device in the meeting in which the commission releases the commission's recommendation under this part.

(2) In addition to the recording required in Subsection (1), the chair shall ensure that a record of the meeting or hearing is made, which shall include:

(a) official minutes taken during the meeting or hearing, if any;

(b) copies of all documents or other items admitted into evidence by the commission;

(c) copies of a document or written order or ruling issued by the chair or the commission; and

(d) any other information that a majority of the commission or the chair directs.

Renumbered and Amended by Chapter 461, 2018 General Session

63A-15-703 Commission deliberations -- Standard of proof.

(1) After each party has presented a closing argument, the commission shall, at the direction of the chair, begin its deliberations:

(a) immediately after conclusion of the closing arguments; or

(b) at a future meeting of the commission, on a date and time determined by a majority of the members of the commission.

(2)

(a) The chair of the commission shall conduct the deliberations.

(b) Upon a motion made by a commission member, the commission may:

(i) exclude commission staff from all or a portion of the deliberations by a majority vote of the commission; or

(ii) close the meeting in accordance with Section 52-4-204.

(3)

(a) During deliberations, for each allegation reviewed by the commission, each member shall determine and cast a vote stating:

(i) whether the allegation is:

(A) proven by clear and convincing evidence; or

(B) not proven; and

(ii) for each allegation proven, whether the commission would recommend to the appropriate political subdivision governing body to take one or more of the following actions:

(A) censure;

(B) in the case of a political subdivision employee, termination;

(C) in the case of a political subdivision officer, removal from office; or

(D) any other action or reprimand that the commission determines is appropriate.

(b)

(i) A verbal roll call vote shall be taken on each allegation, and each recommended action described in Subsection (3)(a)(ii) on each allegation.

(ii) Each member's vote shall be recorded.

(4)

(a) An allegation is not considered to be proven unless six of the seven members of the commission vote that the allegation is proven.

(b) The seven members of the commission described in Subsection (4)(a) refers to the members that actually participate in deciding whether an allegation is proven, including an alternate member described in Subsection 63A-15-201(4)(f)(i)(A) or a temporary member described in Subsection 63A-15-201(4)(f)(i)(B).

(c) An allegation that is not considered to be proven is dismissed.

(d)
(i) Before the commission issues its recommendation in accordance with Section 63A-15-704, the commission may, upon a majority vote, reconsider and hold a new vote on an allegation.
(ii) A motion to reconsider a vote may only be made by a member of the commission who voted that the allegation was not proved.
(5) The commission may not find that an allegation is proven if the allegation is based on an act by an individual under the authority of the political subdivision officer or employee, unless the commission finds, by clear and convincing evidence, that the political subdivision officer or employee:
(a) encouraged, condoned, or ordered the act;
(b)
(i) before the individual engaged in the act, knew or should have known that the individual was likely to engage in the act; and
(ii) failed to take appropriate action to prevent the act;
(c)
(i) while the individual engaged in the act, knew or should have known that the individual was engaging in the act; and
(ii) failed to take appropriate action to stop the act; or
(d)
(i) after the individual engaged in the act, knew or should have known that the individual engaged in the act; and
(ii) failed to take appropriate action in response to the act.
(6) The commission may not find that an allegation is proven if the allegation is based on the failure of an individual under the authority of the political subdivision officer or employee to act, unless the commission finds, by clear and convincing evidence, that the political subdivision officer or employee:
(a) encouraged, condoned, or ordered the failure to act;
(b)
(i) before the individual failed to act, knew or should have known that the individual was likely to fail to act; and
(ii) failed to take appropriate action to prevent the failure to act;
(c)
(i) while the individual was failing to act, knew or should have known that the individual was failing to act; and
(ii) failed to take appropriate action to prevent the failure to act; or
(d)
(i) after the individual failed to act, knew or should have known that the individual failed to act; and
(ii) failed to take appropriate action in response to the failure to act.
(7) At the conclusion of deliberations, the commission shall prepare the commission's recommendations as provided in Sections 63A-15-704 and 63A-15-705.

Renumbered and Amended by Chapter 461, 2018 General Session

63A-15-704 Recommendations of commission.
(1)
(a) If the commission determines that no allegations in the complaint were proved, the commission shall:

(i) issue and enter into the record an order that the complaint is dismissed because no allegations in the complaint were found to have been proved;
(ii) provide notice of the determination at a public meeting; and
(iii) provide written notice of the determination to:
(A) the respondent;
(B) the first complainant named on the complaint; and
(C) the appropriate political subdivision.
(2) If the commission determines that one or more of the allegations in the complaint were proved, the commission shall:
(a) if one or more allegations were not found to have been proven, enter into the record an order dismissing those unproven allegations; and
(b) prepare a written recommendation to the applicable political subdivision governing body that:
(i) lists the name of each complainant;
(ii) lists the name of the respondent;
(iii) states the date of the recommendation;
(iv) for each allegation that was found to be proven:
(A) provides a reference to the statute or criminal provision allegedly violated;
(B) states the number and names of commission members voting that the allegation was proved and the number and names of commission members voting that the allegation was not proved;
(C) at the option of those members voting that the allegation was proved, includes a statement by one or all of those members stating the reasons for voting that the allegation was proved; and
(D) at the option of those members voting that the allegation was not proved, includes a statement by one or all of those members stating the reasons for voting that the allegation was not proved;
(v) contains any general statement that is adopted for inclusion in the recommendation by a majority of the members of the commission;
(vi) contains a statement referring the allegations found to have been proved to the appropriate political subdivision governing body for review and, if necessary, further action;
(vii) contains a statement referring to each allegation proven the commission's recommendation under Subsection 63A-15-703(3)(a)(ii);
(viii) states the name of each member of the commission; and
(ix) is signed by each commission member.
(3) The commission shall provide notice of the determination:
(a) at a public meeting; and
(b) in writing to:
(i) the respondent;
(ii) the first complainant named on the complaint; and
(iii) in accordance with Subsection (4), the appropriate political subdivision.
(4) The commission shall ensure that, within 10 business days of the date of public issuance of the determination in accordance with Subsection (3), the following documents are provided to the political subdivision governing body:
(a) a cover letter referring the proven allegations contained in the complaint to the political subdivision governing body for review;
(b) a copy of the complaint;
(c) a copy of the response; and
(d) a copy of the commission's recommendation.

Renumbered and Amended by Chapter 461, 2018 General Session

63A-15-705 Criminal allegation -- Recommendation to county or district attorney or attorney general.

(1) If the commission finds that a political subdivision officer or employee allegedly violated a criminal provision, the commission shall, in addition to sending a recommendation to a political subdivision governing body in accordance with Section 63A-15-704, send a written recommendation for further investigation to one or more of the following:
  (a) the county or district attorney of the applicable jurisdiction; or
  (b) the attorney general.
(2) The written recommendation described in Subsection (1) shall:
  (a) list the name of each complainant;
  (b) list the name of the respondent;
  (c) state the date of the recommendation;
  (d) for each allegation of a criminal violation, provide a reference to the criminal provision allegedly violated;
  (e) include a general statement that is adopted by a majority of the members of the commission; and
  (f) state the name of the political subdivision governing body that the commission sent a recommendation to in accordance with Section 63A-15-704.
(3) If the commission sends a recommendation in accordance with this section, the commission shall enter into the record:
  (a) a copy of the recommendation; and
  (b) the name of each person described in Subsection (1) to whom the commission sent the recommendation.
(4) A recommendation prepared and delivered in accordance with this section is a public record.

Renumbered and Amended by Chapter 461, 2018 General Session

63A-15-706 Action by political subdivision governing body.

A political subdivision governing body that receives a recommendation in accordance with Section 63A-15-704 shall:
(1) review the recommendation; and
(2) take further action in accordance with a political subdivision's governing ordinance, bylaws, or other applicable governing rule.

Renumbered and Amended by Chapter 461, 2018 General Session

Chapter 16
Governance Of Technology

Part 1
General Provisions

63A-16-102 Definitions.

As used in this chapter:

(1) "Chief information officer" means the chief information officer appointed under Section 63A-16-201.

(2) "Data center" means a centralized repository for the storage, management, and dissemination of data.

(3) "Division" means the Division of Technology Services.

(4) "Enterprise architecture" means:

(a) information technology assets and functions that can be applied across state government, including:

(i) mainframes, servers, desktop devices, peripherals, and other computing devices;

(ii) networks;

(iii) enterprise-wide applications;

(iv) maintenance and help desk functions for common hardware and applications;

(v) standards for other computing devices, operating systems, common applications, and software; and

(vi) master contracts that are available for use by agencies for various systems, including operating systems, databases, enterprise resource planning and customer relationship management software, application development services, and enterprise integration; and

(b) support for information technology that can be applied across state government, including:

(i) technical support;

(ii) master software licenses; and

(iii) hardware and software standards.

(5)

(a) "Executive branch agency" means an agency or administrative subunit of state government.

(b) "Executive branch agency" does not include:

(i) the legislative branch;

(ii) the judicial branch;

(iii) the State Board of Education;

(iv) the Utah Board of Higher Education;

(v) institutions of higher education;

(vi) independent entities as defined in Section 63E-1-102; or

(vii) the following elective constitutional offices of the executive department:

(A) the state auditor;

(B) the state treasurer; and

(C) the attorney general.

(6) "Executive branch strategic plan" means the executive branch strategic plan created under Section 63A-16-202.

(7) "Individual with a disability" means an individual with a condition that meets the definition of "disability" in 42 U.S.C. Sec. 12102.

(8) "Information technology" means all computerized and auxiliary automated information handling, including:

(a) systems design and analysis;

(b) acquisition, storage, and conversion of data;

(c) computer programming;

(d) information storage and retrieval;

(e) voice, video, and data communications;

(f) requisite systems controls;

(g) simulation; and
(h) all related interactions between people and machines.
(9) "State information architecture" means a logically consistent set of principles, policies, and standards that guide the engineering of state government's information technology and infrastructure in a way that ensures alignment with state government's business and service needs.

Amended by Chapter 169, 2022 General Session

63A-16-103 Division of Technology Services.
(1) There is created within the department the Division of Technology Services.
(2) The division has authority to operate as an internal service fund agency as provided in Section 63J-1-410.

Renumbered and Amended by Chapter 344, 2021 General Session

63A-16-104 Duties of division.
The division shall:
(1) lead state executive branch agency efforts to establish and reengineer the state's information technology architecture with the goal of coordinating central and individual agency information technology in a manner that:
(a) ensures compliance with the executive branch agency strategic plan; and
(b) ensures that cost-effective, efficient information and communication systems and resources are being used by agencies to:
(i) reduce data, hardware, and software redundancy;
(ii) improve system interoperability and data accessibility between agencies; and
(iii) meet the agency's and user's business and service needs;
(2) coordinate an executive branch strategic plan for all agencies;
(3) develop and implement processes to replicate information technology best practices and standards throughout the executive branch;
(4) once every three years:
(a) conduct an information technology security assessment via an independent third party:
(i) to evaluate the adequacy of the division's and the executive branch agencies' data and information technology system security standards; and
(ii) that will be completed over a period that does not exceed two years; and
(b) communicate the results of the assessment described in Subsection (4)(a) to the appropriate executive branch agencies and to the president of the Senate and the speaker of the House of Representatives;
(5) subject to Subsection 63G-6a-109.5(9):
(a) advise executive branch agencies on project and contract management principles as they relate to information technology projects within the executive branch; and
(b) approve the acquisition of technology services and products by executive branch agencies as required under Section 63G-6a-109.5;
(6) work toward building stronger partnering relationships with providers;
(7) develop service level agreements with executive branch departments and agencies to ensure quality products and services are delivered on schedule and within budget;
(8) develop standards for application development including a standard methodology and cost-benefit analysis that all agencies shall utilize for application development activities;

(9) determine and implement statewide efforts to standardize data elements;
(10) coordinate with executive branch agencies to provide basic website standards for agencies that address common design standards and navigation standards, including:
(a) accessibility for individuals with disabilities in accordance with:
(i) the standards of 29 U.S.C. Sec. 794d; and
(ii) Section 63A-16-209;
(b) consistency with standardized government security standards;
(c) designing around user needs with data-driven analysis influencing management and development decisions, using qualitative and quantitative data to determine user goals, needs, and behaviors, and continual testing of the website, web-based form, web-based application, or digital service to ensure that user needs are addressed;
(d) providing users of the website, web-based form, web-based application, or digital service with the option for a more customized digital experience that allows users to complete digital transactions in an efficient and accurate manner; and
(e) full functionality and usability on common mobile devices;
(11) consider, when making a purchase for an information system, cloud computing options, including any security benefits, privacy, data retention risks, and cost savings associated with cloud computing options;
(12) develop systems and methodologies to review, evaluate, and prioritize existing information technology projects within the executive branch and report to the governor and the Government Operations Interim Committee in accordance with Section 63A-16-201 on a semiannual basis regarding the status of information technology projects;
(13) assist the Governor's Office of Planning and Budget with the development of information technology budgets for agencies;
(14) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:
(a) under this chapter;
(b) by the department; or
(c) by the division;
(15) provide support to executive branch agencies for the information technology assets and functions that are unique to the agency and are mission critical functions of the agency;
(16) provide in-house information technology staff support to executive branch agencies;
(17) establish a committee composed of agency user groups to coordinate division services with agency needs;
(18) assist executive branch agencies in complying with the requirements of any rule made by the chief information officer;
(19) develop and implement an effective enterprise architecture governance model for the executive branch;
(20) provide oversight of information technology projects that impact statewide information technology services, assets, or functions of state government to:
(a) control costs;
(b) ensure business value to a project;
(c) maximize resources;
(d) ensure the uniform application of best practices; and
(e) avoid duplication of resources;
(21) develop a method of accountability to agencies for services provided by the department through service agreements with the agencies;

(22) serve as a project manager for enterprise architecture, including management of applications, standards, and procurement of enterprise architecture;
(23) coordinate the development and implementation of advanced state telecommunication systems;
(24) provide services, including technical assistance:
(a) to executive branch agencies and subscribers to the services; and
(b) related to information technology or telecommunications;
(25) establish telecommunication system specifications and standards for use by:
(a) one or more executive branch agencies; or
(b) one or more entities that subscribe to the telecommunication systems in accordance with Section 63A-16-302;
(26) coordinate state telecommunication planning, in cooperation with:
(a) state telecommunication users;
(b) executive branch agencies; and
(c) other subscribers to the state's telecommunication systems;
(27) cooperate with the federal government, other state entities, counties, and municipalities in the development, implementation, and maintenance of:
(a)
(i) governmental information technology; or
(ii) governmental telecommunication systems; and
(b)
(i) as part of a cooperative organization; or
(ii) through means other than a cooperative organization;
(28) establish, operate, manage, and maintain:
(a) one or more state data centers; and
(b) one or more regional computer centers;
(29) design, implement, and manage all state-owned, leased, or rented land, mobile, or radio telecommunication systems that are used in the delivery of services for state government or the state's political subdivisions;
(30) in accordance with the executive branch strategic plan, implement minimum standards to be used by the division for purposes of compatibility of procedures, programming languages, codes, and media that facilitate the exchange of information within and among telecommunication systems;
(31) establish standards for the information technology needs of a collection of executive branch agencies or programs that share common characteristics relative to the types of stakeholders the agencies or programs serve, including:
(a) project management;
(b) application development; and
(c) subject to Subsections (5) and 63G-6a-109.5(9), procurement;
(32) provide oversight of information technology standards that impact multiple executive branch agency information technology services, assets, or functions to:
(a) control costs;
(b) ensure business value to a project;
(c) maximize resources;
(d) ensure the uniform application of best practices; and
(e) avoid duplication of resources;
(33) establish a system of accountability to user agencies through the use of service agreements;

(34) provide the services described in Section 63A-16-109 for a state elected official or state employee who has been threatened; and
(35) provide technical consultation to the State Archives regarding digital authentication systems in accordance with Section 63A-16-215.

Amended by Chapter 187, 2026 General Session

63A-16-105 Director -- Authority.
(1) The executive director shall, with the approval of the governor, appoint the director.
(2) The director:
(a) shall exercise all powers given to, and perform all duties imposed on, the division;
(b) has administrative jurisdiction over the division and each office within the division;
(c) may make changes in division personnel and service functions under the director's administrative jurisdiction; and
(d) may authorize a designee to perform appropriate responsibilities.
(3) The director may, to facilitate division management, establish offices and bureaus to perform division functions.
(4)
(a) The director may hire employees in the division and offices of the division as permitted by division resources.
(b) Except as provided in Subsection (5), each employee of the division is exempt from career service or classified service status as provided in Section 63A-17-301.
(5)
(a) Unless the employee voluntarily converted to an exempt position described in Section 63A-17-301, an employee of an executive branch agency who was a career service employee as of July 1, 2005, who was transferred to the division at the time it was newly created as the Department of Technology Services continues in the employee's career service status during the employee's service to the division if the duties of the position in the division are substantially similar to those in the employee's previous position.
(b) A career service employee transferred under the provisions of Subsection (5)(a), whose duties or responsibilities subsequently change, may not be converted to exempt status without the review process required by Subsection 63A-17-301(3).

Amended by Chapter 169, 2022 General Session

63A-16-107 Utah Open Data Portal Website.
(1) As used in this section:
(a) "Governmental entity" means the same as that term is defined in Section 63G-2-103.
(b) "Public information" means:
(i) a record of a state governmental entity, a local governmental entity, or an independent entity that is classified as public under Title 63G, Chapter 2, Government Records Access and Management Act; or
(ii) subject to any specific limitations and requirements regarding the provision of financial information from the entity under Section 67-3-12, for an entity that is exempt from Title 63G, Chapter 2, Government Records Access and Management Act, records that would normally be classified as public if the entity were not exempt from Title 63G, Chapter 2, Government Records Access and Management Act.

(c) "Private, controlled, or protected information" means information classified as private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.
(d) "Website" means the Utah Open Data Portal Website created in this section.
(2) There is created the Utah Open Data Portal Website to be administered by the division.
(3) The website shall serve as a point of access for public information.
(4) The division shall:
(a) establish and maintain the website;
(b) provide equipment, resources, and personnel as needed to establish and maintain the website;
(c) provide a mechanism for a governmental entity to gain access to the website for the purpose of posting and modifying public information; and
(d) maintain an archive of all public information posted to the website.
(5) The timing for posting and the content of the public information posted to the website is the responsibility of the governmental entity posting the public information.
(6) A governmental entity may not post private, controlled, or protected information to the website.
(7) A person who negligently discloses private, controlled, or protected information is not criminally or civilly liable for improper disclosure of the information if the information is disclosed solely as a result of the preparation or publication of the website.

Amended by Chapter 249, 2023 General Session

63A-16-108 Digital verifiable credential and records.
(1) As used in this section:
(a) "Blockchain" means a distributed ledger of ordered electronic records that:
(i) is distributed across a network of computers;
(ii) utilizes technology to prevent the unauthorized alteration of electronic records; and
(iii) is mathematically verified.
(b) "Chief privacy officer" means the individual appointed under Section 63A-19-302.
(c) "Digital record schema" means a description of the data fields and tamper-evident technologies required to create a digital verifiable credential or digital verifiable record that can be registered on a distributed ledger technology.
(d) "Digital signature" means a tamper-evident, immutable, electronic seal that is equivalent in function and status to a notary seal issued by a government entity.
(e) "Digital verifiable credential" means a digital document that:
(i) attests to a fact;
(ii) is issued by a government entity;
(iii) can be mathematically verified; and
(iv) conveys rights, privileges, and legal enforceability equivalent to the possession of a physical credential of the same type.
(f) "Digital verifiable record" means a digital record that:
(i) is issued by a government entity or has been digitally signed by a government entity;
(ii) has a digital signature;
(iii) can be mathematically verified; and
(iv) conveys rights, privileges, and legal enforceability equivalent to the possession of a physical record of the same type.
(g) "Distributed ledger" means a decentralized database that is maintained by the consensus of replicated, shared, and synchronized digital data.

(h) "Government entity" means:
(i) the state;
(ii) a state agency; or
(iii) a political subdivision of the state.
(i) "State archivist" means the state archivist appointed under Section 63A-12-102.
(j) "State registrar" means the state registrar of vital records appointed under Section 26B-8-102.
(2) The Division of Technology Services shall:
(a) provide recommendations to government entities regarding:
(i) appropriate digital record schemas that allow a government to issue a digital verifiable credential or record;
(ii) policies and procedures to protect the privacy of personal identifying information maintained within distributed ledger programs;
(iii) the manner and format in which an issuer may certify a document through blockchain; and
(iv) processes and procedures for the preservation, auditability, integrity, security, and confidentiality of digital verifiable credentials and records;
(b) create a pilot program for the implementation of digital verifiable credentials by governmental entities; and
(c) report to Public Utilities, Energy, and Technology Interim Committee by October 31, 2023, on the duties described in Subsections (2)(a) and (b).
(3) In performing the duties described in Subsections (2)(a) and (b), the Division of Technology Services shall consult with:
(a) the state archivist;
(b) the chief privacy officer;
(c) the state registrar;
(d) private industry professionals with relevant expertise;
(e) the Utah League of Cities and Towns; and
(f) an association of counties in the state.

Amended by Chapter 202, 2026 General Session

63A-16-109 Removal of state elected official or employee personal identifying information.
(1) As used in this section:
(a) "Open web" means the Internet used for everyday activities like browsing, searching, reading media, online shopping, or other website or online applications.
(b) "Personal identifying information" means the following:
(i) physical home address and personal email address;
(ii) home telephone number and personal mobile telephone number;
(iii) driver license or other government-issued identification; or
(iv) social security number.
(c)
(i) "State elected official" means a person who holds an office in state government that is required by law to be filled by an election, including the offices of governor, lieutenant governor, attorney general, state auditor, state treasurer, and legislator.
(ii) "State elected official" does not include a judge.
(d) "State employee who has been threatened" means an individual:
(i)
(A) who is a cabinet level official or senior staff of the governor; or

(B) who is an employee of the state executive branch and meets selective criteria implemented by the division that are established by rule made under Subsection (4); and

(ii) whose life or safety has been threatened in the course of performing the individual's state duties through a text, phone call, email, postal delivery, face-to-face encounter, or website or online application.

(2) At the written request of a state elected official or a state employee who has been threatened, the division shall within 30 days of receipt of the request:

(a) search the open web for personal identifying information that is about the state elected official or state employee who has been threatened;

(b) when possible, remove the personal identifying information found under Subsection (2)(a) from the open web; and

(c) conduct continuous monthly removal when possible of personal identifying information from the open web.

(3) The chief information officer may contract, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, with a third party to provide the services described in Subsection (2).

(4) The chief information officer may by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish requirements related to:

(a) what information the state elected official or state employee who has been threatened shall provide the division as part of the request described in Subsection (2);

(b) procedures for submitting the written request to the division; and

(c) establishing the selective criteria used to determine whether a state employee may receive the services described in Subsection (2).

(5) The division may not charge a rate for the services provided under this section.

(6)

(a) In addition to the governmental immunity granted in Title 63G, Chapter 7, Governmental Immunity Act of Utah, the division is not liable for actions performed under this section except as a result of intentional misconduct or gross negligence including reckless, willful, or wanton misconduct.

(b) This section does not create a special duty of care.

(7) A federal, state, or local government record is not subject to this section, even if the government record contains personal identifying information.

Enacted by Chapter 508, 2024 General Session

63A-16-110 Use of authorized domain extensions for government websites.

(1) As used in this section:

(a) "Authorized top-level domain" means any of the following suffixes that follow the domain name in a website address:

(i) gov;

(ii) edu; and

(iii) mil.

(b) "Governmental entity" means the same as that term is defined in Section 63G-2-103.

(c) "Government website" means the same as that term is defined in Section 63A-19-101.

(d) "Person" means the same as that term is defined in Section 63G-2-103.

(e) "School" means a public elementary or secondary school.

(2) Beginning July 1, 2025, a governmental entity shall use an authorized top-level domain for:

(a) the website address for the governmental entity's government website; and

(b) the email addresses used by the governmental entity and the governmental entity's employees.

(3) Notwithstanding Subsection (2), a governmental entity may operate a website that uses a top-level domain that is not an authorized top-level domain if:

(a)

(i) a reasonable person would not mistake the website as the governmental entity's primary government website; and

(ii) the government website is:

(A) solely for internal use and not intended for use by members of the public;

(B) temporary and in use by the governmental entity for a period of less than one year; or

(C) related to an event, program, or informational campaign operated by the governmental entity in partnership with another person that is not a governmental entity; or

(b) the governmental entity is a school district or a school that is not an institution of higher education and the use of an authorized top-level domain is otherwise prohibited, provided that once the use of an authorized top-level domain is not otherwise prohibited, the school district or school shall transition to an authorized top-level domain within 15 months.

(4) The chief information officer appointed under Section 63A-16-201 may authorize a waiver of the requirement in Subsection (2) if:

(a) there are extraordinary circumstances under which use of an authorized domain extension would cause demonstrable harm to citizens or businesses; and

(b) the executive director or chief executive of the governmental entity submits a written request to the chief information officer that includes a justification for the waiver.

Renumbered and Amended by Chapter 475, 2025 General Session

Part 2
Chief Information Officer

63A-16-201 Chief information officer -- Appointment -- Powers -- Reporting.

(1) The director of the division shall serve as the state's chief information officer.

(2) The chief information officer shall:

(a) advise the governor on information technology policy; and

(b) perform those duties given the chief information officer by statute.

(3)

(a) The chief information officer shall report annually to:

(i) the governor; and

(ii) the Government Operations Interim Committee.

(b) The report required under Subsection (3)(a) shall:

(i) summarize the state's current and projected use of information technology;

(ii) summarize the executive branch strategic plan including a description of major changes in the executive branch strategic plan;

(iii) provide a brief description of each state agency's information technology plan;

(iv) include the status of information technology projects described in Subsection 63A-16-104(10);

(v) include the performance report described in Section 63A-16-211; and

(vi) include the expenditure of the funds provided for electronic technology, equipment, and hardware.

Amended by Chapter 43, 2023 General Session

63A-16-202 Executive branch information technology strategic plan.

(1) In accordance with this section, the chief information officer shall prepare an executive branch information technology strategic plan:
(a) that complies with this chapter; and
(b) that includes:
(i) a strategic plan for the:
(A) interchange of information related to information technology between executive branch agencies;
(B) coordination between executive branch agencies in the development and maintenance of information technology and information systems, including the coordination of agency information technology plans described in Section 63A-16-203; and
(C) protection of the privacy of individuals who use state information technology or information systems, including the implementation of industry best practices for data and system security;
(ii) priorities for the development and implementation of information technology or information systems including priorities determined on the basis of:
(A) the importance of the information technology or information system; and
(B) the time sequencing of the information technology or information system; and
(iii) maximizing the use of existing state information technology resources.

(2) In the development of the executive branch strategic plan, the chief information officer shall consult with all cabinet level officials.

(3)
(a) Unless withdrawn by the chief information officer or the governor in accordance with Subsection (3)(b), the executive branch strategic plan takes effect 30 days after the day on which the executive branch strategic plan is submitted to:
(i) the governor; and
(ii) the Government Operations Interim Committee.
(b) The chief information officer or the governor may withdraw the executive branch strategic plan submitted under Subsection (3)(a) if the governor or chief information officer determines that the executive branch strategic plan:
(i) should be modified; or
(ii) for any other reason should not take effect.
(c) The Government Operations Interim Committee may make recommendations to the governor and to the chief information officer if the commission determines that the executive branch strategic plan should be modified or for any other reason should not take effect.
(d) Modifications adopted by the chief information officer shall be resubmitted to the governor and the Government Operations Interim Committee for their review or approval as provided in Subsections (3)(a) and (b).

(4)
(a) The chief information officer shall annually, on or before January 1, modify the executive branch information technology strategic plan to incorporate security standards that:
(i) are identified as industry best practices in accordance with Subsections 63A-16-104(3) and (4); and

(ii) can be implemented within the budget of the department or the executive branch agencies.

(b) The chief information officer shall inform the speaker of the House of Representatives and the president of the Senate on or before January 1 of each year if best practices identified in Subsection (4)(a)(i) are not adopted due to budget issues considered under Subsection (4)(a)(ii).

(5) Each executive branch agency shall implement the executive branch strategic plan by adopting an agency information technology plan in accordance with Section 63A-16-203.

Amended by Chapter 169, 2022 General Session

63A-16-203 Agency information technology plans.

(1)

(a) On or before July 1 each year, each executive branch agency shall submit an agency information technology plan to the chief information officer at the department level, unless the governor or the chief information officer request an information technology plan be submitted by a subunit of a department, or by an executive branch agency other than a department.

(b) The information technology plans required by this section shall be in the form and level of detail required by the chief information officer, by administrative rule under Section 63A-16-205, and shall include, at least:

(i) the information technology objectives of the agency;

(ii) any performance measures used by the agency for implementing the agency's information technology objectives;

(iii) any planned expenditures related to information technology;

(iv) the agency's need for appropriations for information technology;

(v) how the agency's development of information technology coordinates with other state and local governmental entities;

(vi) any efforts the agency has taken to develop public and private partnerships to accomplish the information technology objectives of the agency;

(vii) the efforts the executive branch agency has taken to conduct transactions electronically in compliance with Section 46-4-503; and

(viii) the executive branch agency's plan for the timing and method of verifying the department's security standards, if an agency intends to verify the department's security standards for the data that the agency maintains or transmits through the department's servers.

(2)

(a) Except as provided in Subsection (2)(b), an agency information technology plan described in Subsection (1) shall comply with the executive branch strategic plan established in accordance with Section 63A-16-202.

(b) If the executive branch agency submitting the agency information technology plan justifies the need to depart from the executive branch strategic plan, an agency information technology plan may depart from the executive branch strategic plan to the extent approved by the chief information officer.

(3) The chief information officer shall review each agency plan to determine:

(a)

(i) whether the agency plan complies with the executive branch strategic plan and state information architecture; or

(ii) to the extent that the agency plan does not comply with the executive branch strategic plan or state information architecture, whether the executive branch entity is justified in departing from the executive branch strategic plan, or state information architecture; and

(b) whether the agency plan meets the information technology and other needs of:
(i) the executive branch agency submitting the plan; and
(ii) the state.
(4) After the chief information officer conducts the review described in Subsection (3) of an agency information technology plan, the chief information officer may:
(a) approve the agency information technology plan;
(b) disapprove the agency information technology plan; or
(c) recommend modifications to the agency information technology plan.
(5) An executive branch agency or the department may not submit a request for appropriation related to information technology or an information technology system to the governor in accordance with Section 63J-1-201 until after the executive branch agency's information technology plan is approved by the chief information officer.

Amended by Chapter 169, 2022 General Session

63A-16-205 Rulemaking -- Policies.
(1)
(a) Except as provided in Subsection (2), the chief information officer shall, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
(i) establish standards that impose requirements on executive branch agencies related to the security of the statewide area network;
(ii) establish standards for when an agency must obtain approval before obtaining items described in Subsection 63G-6a-109.5(2);
(iii) specify the detail and format required in an agency information technology plan submitted in accordance with Section 63A-16-203;
(iv) establish standards related to the privacy policies of websites operated by or on behalf of an executive branch agency;
(v) subject to Subsection 63G-6a-109.5(9), establish standards for the acquisition, licensing, and sale of computer software;
(vi) specify the requirements for the project plan and business case analysis required under Section 63G-6a-109.5;
(vii) provide for project oversight of agency technology projects when required under Section 63G-6a-109.5;
(viii) establish, in accordance with Subsection 63G-6a-109.5(3), the implementation of the needs assessment for information technology purchases;
(ix) establish telecommunications standards and specifications in accordance with Subsection 63G-6a-109.5(25); and
(x) establish standards for accessibility of information technology by individuals with disabilities in accordance with Section 63A-16-209.
(b) The rulemaking authority granted by Subsection (1)(a) is in addition to any other rulemaking authority granted under this chapter.
(2)
(a) Notwithstanding Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and subject to Subsection (2)(b), the chief information officer may adopt a policy that outlines procedures to be followed by the chief information officer in facilitating the implementation of this title by executive branch agencies if the policy:
(i) is consistent with the executive branch strategic plan; and
(ii) is not required to be made by rule under Subsection (1) or Section 63G-3-201.

(b)
(i) A policy adopted by the chief information officer under Subsection (2)(a) may not take effect until 30 days after the day on which the chief information officer submits the policy to:
(A) the governor; and
(B) all cabinet level officials.
(ii) During the 30-day period described in Subsection (2)(b)(i), cabinet level officials may review and comment on a policy submitted under Subsection (2)(b)(i).
(3)
(a) Notwithstanding Subsection (1) or (2) or Title 63G, Chapter 3, Utah Administrative Rulemaking Act, without following the procedures of Subsection (1) or (2), the chief information officer may adopt a security procedure to be followed by executive branch agencies to protect the statewide area network if:
(i) broad communication of the security procedure would create a significant potential for increasing the vulnerability of the statewide area network to breach or attack; and
(ii) after consultation with the chief information officer, the governor agrees that broad communication of the security procedure would create a significant potential increase in the vulnerability of the statewide area network to breach or attack.
(b) A security procedure described in Subsection (3)(a) is classified as a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.
(c) The chief information officer shall provide a copy of the security procedure as a protected record to:
(i) the chief justice of the Utah Supreme Court for the judicial branch;
(ii) the speaker of the House of Representatives and the president of the Senate for the legislative branch;
(iii) the chair of the Utah Board of Higher Education; and
(iv) the chair of the State Board of Education.

Amended by Chapter 43, 2023 General Session

63A-16-206 Coordination within the executive branch -- Cooperation with other branches.
(1) In accordance with the executive branch strategic plan and the requirements of this title, the chief information officer shall coordinate the development of information technology systems between two or more executive branch agencies subject to:
(a) the budget approved by the Legislature; and
(b) Title 63J, Chapter 1, Budgetary Procedures Act.
(2) In addition to the coordination described in Subsection (1), the chief information officer shall promote cooperation regarding information technology between branches of state government.

Renumbered and Amended by Chapter 344, 2021 General Session

63A-16-207 Delegation of division functions.
(1)
(a) If the conditions of Subsections (1)(b) and (2) are met and subject to the other provisions of this section, the chief information officer may delegate a function of the division to another executive branch agency or an institution of higher education by contract or other means authorized by law.

(b) The chief information officer may delegate a function of the division as provided in Subsection (1)(a) if in the judgment of the director of the executive branch agency and the chief information officer:
(i) the executive branch agency or institution of higher education has requested that the function be delegated;
(ii) the executive branch agency or institution of higher education has the necessary resources and skills to perform or control the function to be delegated; and
(iii) the function to be delegated is a unique or mission-critical function of the agency or institution of higher education.
(2) The chief information officer may delegate a function of the division only when the delegation results in net cost savings or improved service delivery to the state as a whole or to the unique mission critical function of the executive branch agency.
(3) The delegation of a function under this section shall:
(a) be in writing;
(b) contain all of the following:
(i) a precise definition of each function to be delegated;
(ii) a clear description of the standards to be met in performing each function delegated;
(iii) a provision for periodic administrative audits by the division;
(iv) a date on which the agreement shall terminate if the agreement has not been previously terminated or renewed; and
(v) any delegation of division staff to the agency to support the function in-house with the agency and rates to be charged for the delegated staff; and
(c) include a cost-benefit analysis justifying the delegation.
(4) An agreement to delegate functions to an executive branch agency or an institution of higher education may be terminated by the division if the results of an administrative audit conducted by the division reveals a lack of compliance with the terms of the agreement by the executive branch agency or institution of higher education.

Renumbered and Amended by Chapter 344, 2021 General Session

63A-16-208 Delegation of division staff to executive branch agencies -- Prohibition against executive branch agency information technology staff.

(1)
(a) The chief information officer shall assign division staff to serve an agency in-house if the chief information officer and the executive branch agency director jointly determine it is appropriate to provide information technology services to:
(i) the agency's unique mission-critical functions and applications;
(ii) the agency's participation in and use of statewide enterprise architecture; and
(iii) the agency's use of coordinated technology services with other agencies that share similar characteristics with the agency.
(b)
(i) An agency may request the chief information officer to assign in-house staff support from the division.
(ii) The chief information officer shall respond to the agency's request for in-house staff support in accordance with Subsection (1)(a).
(c) The division shall enter into service agreements with an agency when division staff is assigned in-house to the agency under the provisions of this section.

(d) An agency that receives in-house staff support assigned from the division under the provision of this section is responsible for paying the rates charged by the division for that staff as established under Section 63A-16-301.

(2)

(a) An executive branch agency may not create a full-time equivalent position or part-time position, or request an appropriation to fund a full-time equivalent position or part-time position under the provisions of Section 63J-1-201 for the purpose of providing information technology services to the agency unless:

(i) the chief information officer has approved a delegation under Section 63A-16-207; and

(ii) the division conducts an audit in relation to Section 63A-16-102 and finds that the delegation of information technology services to the agency meets the requirements of Section 63A-16-207.

(b) The prohibition against a request for appropriation under Subsection (2)(a) does not apply to a request for appropriation needed to pay rates imposed under Subsection (1)(d).

Amended by Chapter 169, 2022 General Session

63A-16-209 Accessibility standards for executive branch agency information technology.

(1) The chief information officer shall establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) minimum standards for accessibility of executive branch agency information technology by an individual with a disability that:

(i) include accessibility criteria for:

(A) agency websites;

(B) hardware and software procured by an executive branch agency; and

(C) information systems used by executive branch agency employees;

(ii) include a protocol to evaluate the standards via testing by individuals with a variety of access limitations; and

(iii) are, at minimum, consistent with the most recent Web Content Accessibility guidelines published by the World Wide Web Consortium; and

(b) grievance procedures for an individual with a disability who is unable to access executive branch agency information technology, including:

(i) a process for an individual with a disability to report the access issue to the chief information officer; and

(ii) a mechanism through which the chief information officer can respond to the report.

(2) The chief information officer shall update the standards described in Subsection (1)(a) at least every three years to reflect advances in technology.

Renumbered and Amended by Chapter 344, 2021 General Session

63A-16-210 Chief information security officer.

(1) The chief information officer shall appoint a chief information security officer.

(2) The chief information security officer described in Subsection (1) shall:

(a) assess cybersecurity risks;

(b) coordinate with executive branch agencies to assess the sensitivity of information; and

(c) manage cybersecurity support for the department and executive branch agencies.

Renumbered and Amended by Chapter 344, 2021 General Session

63A-16-211 Report to the Legislature.

The division shall, in accordance with Section 63A-16-201, before November 1 each year, report to the Government Operations Interim Committee on:

(1) performance measures that the division uses to assess the division's effectiveness in performing the division's duties under this part; and

(2) the division's performance, evaluated in accordance with the performance measures described in Subsection (1).

Amended by Chapter 169, 2022 General Session

63A-16-215 Digital authentication system technical support.

(1) As used in this section:

(a) "Digital authentication system" means technology and procedures used to create digitally authenticated records.

(b) "Digitally authenticated record" means the same as that term is defined in Section 17-71-301.5.

(c) "Governmental entity" means the same as that term is defined in Section 63G-2-103.

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

(2) The division shall provide technical consultation to the State Archives regarding:

(a) security standards for digital authentication systems;

(b) cybersecurity requirements;

(c) authentication technologies and methods; and

(d) system integrity standards.

(3) The division may provide technical assistance to governmental entities implementing digital authentication systems approved under Section 17-71-301.5.

Enacted by Chapter 187, 2026 General Session

Effective 1/1/2027

63A-16-216 Government websites and applications.

(1) The chief information officer shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing standards for digital content on a webpage of a state agency that the public can access to facilitate a transaction or obtain a service if the chief information officer determines there is a substantial risk that fraudulent or misleading media could cause harm to a resident of the state interacting with the state agency.

(2) The standards required by Subsection (1) shall require a digitally accessible provenance record containing provenance information for digital content captured, created, or edited that includes:

(a) the identification of:

(i) the type of software or tool used; or

(ii) the specific tool used;

(b) the date of creation;

(c) a content identifier; and

(d) the previous content identifiers, if applicable.

(3) This section does not apply to digital content created before January 1, 2027.

Enacted by Chapter 352, 2026 General Session

Part 3
Information Technology Services and Rates

63A-16-301 Cost based services -- Rates -- Submission to rate committee.

(1) The chief information officer shall:
  (a) at the lowest practical cost, manage the delivery of efficient and cost-effective information technology and telecommunication services for:
    (i) all executive branch agencies; and
    (ii) entities that subscribe to the services in accordance with Section 63A-16-302; and
  (b) provide priority service to public safety agencies.

(2)
  (a) In accordance with this Subsection (2), the chief information officer shall prescribe a schedule of rates for all services rendered by the division to:
    (i) an executive branch entity; or
    (ii) an entity that subscribes to services rendered by the division in accordance with Section 63A-16-302.
  (b) Each rate included in the schedule of rates required by Subsection (2)(a):
    (i) shall be equitable;
    (ii) should be based upon a zero based, full cost accounting of activities necessary to provide each service for which a rate is established; and
    (iii) for each service multiplied by the projected consumption of the service recovers no more or less than the full cost of each service.
  (c) Before charging a rate for its services to an executive branch agency or to a subscriber of services other than an executive branch agency, the chief information officer shall:
    (i) submit the proposed rates and cost analysis to the Rate Committee established in Section 63A-1-114; and
    (ii) obtain the approval of the Legislature as required by Section 63J-1-410.
  (d) The chief information officer shall periodically conduct a market analysis of proposed rates, which analysis shall include a comparison of the division's rates with the rates of other public or private sector providers where comparable services and rates are reasonably available.

Amended by Chapter 169, 2022 General Session

63A-16-302 Executive branch agencies -- Subscription by institutions.

(1) An executive branch agency in accordance with its agency information technology plan approved by the chief information officer shall:
  (a) subscribe to the information technology services provided by the division; or
  (b) contract with one or more alternate private providers of information technology services if the chief information officer determines that the purchase of the services from a private provider will:
    (i) result in:
      (A) cost savings;
      (B) increased efficiency; or
      (C) improved quality of services; and
    (ii) not impair the interoperability of the state's information technology services.

(2) An institution of higher education may subscribe to the services provided by the division if:
(a) the president of the institution recommends that the institution subscribe to the services of the division; and
(b) the Utah Board of Higher Education determines that subscription to the services of the division will result in cost savings or increased efficiency to the institution.
(3) The following may subscribe to information technology services by requesting that the services be provided from the division:
(a) the legislative branch;
(b) the judicial branch;
(c) the State Board of Education;
(d) a political subdivision of the state;
(e) an agency of the federal government;
(f) an independent entity as defined in Section 63E-1-102; and
(g) an elective constitutional officer of the executive department as defined in Subsection 63A-16-102(5)(b)(vii).

Renumbered and Amended by Chapter 344, 2021 General Session

63A-16-302.1 Reporting on consolidation of certain information technology services.
(1) The division shall, in collaboration with the Cybersecurity Commission created in Section 63C-27-201, identify opportunities, limitations, and barriers to enhancing the overall cybersecurity resilience of the state by consolidating:
(a) certain information technology services utilized by governmental entities; and
(b) to the extent feasible, the information technology networks that are operated or utilized by governmental entities.
(2) On or before November 15, 2023, the division shall report the information described in Subsection (1) to:
(a) the Government Operations Interim Committee;
(b) the General Government Appropriations Subcommittee; and
(c) the Cybersecurity Commission created in Section 63C-27-201.

Amended by Chapter 271, 2025 General Session

Part 5
Integrated Technology

63A-16-501 Definitions.
As used in this part:
(1) "Center" means the Utah Geospatial Resource Center created in Section 63A-16-505.
(2) "Database" means the State Geographic Information Database created in Section 63A-16-506.
(3) "Geographic Information System" or "GIS" means a computer driven data integration and map production system that interrelates disparate layers of data to specific geographic locations.
(4) "State Geographic Information Database" means the database created in Section 63A-16-506.
(5) "Statewide Global Positioning Reference Network" or "network" means the network created in Section 63A-16-508.

Amended by Chapter 169, 2022 General Session

63A-16-504 Information technology plan.

(1) In accordance with this section, the division shall submit an information technology plan to the chief information officer.

(2) The information technology plan submitted by the division under this section shall include:

(a) the information required by Section 63A-16-202;

(b) a list of the services the division offers or plans to offer; and

(c) a description of the performance measures used by the division to measure the quality of the services described in Subsection (2)(b).

(3)

(a) In submitting the information technology plan under this section, the division shall comply with Section 63A-16-203.

(b) The information technology plan submitted by the division under this section is subject to the approval of the chief information officer as provided in Section 63A-16-203.

Amended by Chapter 169, 2022 General Session

63A-16-505 Utah Geospatial Resource Center.

(1) There is created the Utah Geospatial Resource Center as part of the division.

(2) The center shall:

(a) provide geographic information system services to state agencies under rules made under Section 63A-16-104 and policies established by the office;

(b) provide geographic information system services to federal government, local political subdivisions, and private persons under rules and policies established by the office;

(c) manage the State Geographic Information Database; and

(d) establish standard format, lineage, and other requirements for the database.

(3)

(a) There is created a position of surveyor within the center.

(b) The surveyor under this Subsection (3) shall:

(i) be licensed as a professional land surveyor under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(ii) provide technical support to the office of lieutenant governor in the lieutenant governor's evaluation under Section 67-1a-6.5 of a proposed boundary action, as defined in Section 17-73-101;

(iii) as requested by a county surveyor, provide technical assistance to the county surveyor with respect to the county surveyor's responsibilities under Section 17-73-507;

(iv) fulfill the duties described in Section 17-61-102, if engaged to do so as provided in that section;

(v) assist the State Tax Commission in processing and quality assurance of boundary descriptions or maps into digital format for inclusion in the State Geographic Information Database;

(vi) coordinate with county recorders and surveyors to create a statewide parcel layer in the State Geographic Information Database containing parcel boundary, parcel identifier, parcel address, owner type, and county recorder contact information; and

(vii) facilitate and integrate the collection efforts of local government and federal agencies for data collection to densify and enhance the statewide Public Land Survey System reference network in the State Geographic Information Database.

(4) The office may:
(a) make rules and establish policies to govern the center and the center's operations; and
(b) set fees for the services provided by the center.
(5) The state may not sell information obtained from counties under Subsection (3)(b)(v).

Amended by Chapter 17, 2025 Special Session 1

63A-16-506 State Geographic Information Database.
(1) There is created a State Geographic Information Database to be managed by the center.
(2) The database shall:
(a) serve as the central reference for all information contained in any GIS database by any state agency;
(b) serve as a clearing house and repository for all data layers required by multiple users;
(c) serve as a standard format for geographic information acquired, purchased, or produced by any state agency;
(d) include an accurate representation of all civil subdivision boundaries of the state; and
(e) for each public highway, as defined in Section 72-1-102, in the state, include an accurate representation of the highway's centerline, physical characteristics, and associated street address ranges.
(3) The center shall, in coordination with municipalities, counties, emergency communications centers, and the Department of Transportation:
(a) develop the information described in Subsection (2)(e); and
(b) update the information described in Subsection (2)(e) in a timely manner after a county recorder records a final plat.
(4) The center, in coordination with county assessors and metropolitan planning organizations:
(a) shall inventory existing housing units and their general characteristics within each county of the first or second class to support infrastructure planning and economic development in each of those counties; and
(b) may inventory existing housing units and their general characteristics within one or more counties of the third, fourth, fifth, or sixth class to support infrastructure planning and economic development in one or more of those counties.
(5)
(a) The center shall, in coordination with the Governor's Office of Planning and Budget and county assessors, annually compile a statewide GIS database of all government-owned property parcels in internet-accessible, searchable, and map format.
(b) The database described in Subsection (5)(a) shall include a parcel's:
(i) number, if available;
(ii) owner;
(iii) location; and
(iv) size.
(6) Each state agency that acquires, purchases, or produces digital geographic information data shall:
(a) inform the center of the existence of the data layers and their geographic extent;
(b) allow the center access to all data classified public; and
(c) comply with any database requirements established by the center.
(7) At least annually, the State Tax Commission shall deliver to the center information the State Tax Commission receives under Section 67-1a-6.5 relating to the creation or modification of the boundaries of political subdivisions.

(8) The boundary of a political subdivision within the State Geographic Information Database is the official boundary of the political subdivision for purposes of meeting the needs of the United States Bureau of the Census in identifying the boundary of the political subdivision.

Amended by Chapter 197, 2023 General Session

63A-16-508 Statewide Global Positioning Reference Network created -- Rulemaking authority.

(1)
(a) There is created the Statewide Global Positioning Reference Network to improve the quality of geographic information system data and the productivity, efficiency, and cost-effectiveness of government services.
(b) The network shall provide a system of permanently mounted, fully networked, global positioning system base stations that will provide real time radio navigation and establish a standard statewide coordinate reference system.
(c) The center shall administer the network.

(2)
(a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the chief information officer shall make rules providing for operating policies and procedures for the network.
(b) When making rules under this section, the chief information officer shall consider:
(i) network development that serves a public purpose;
(ii) increased productivity and efficiency for state agencies; and
(iii) costs and longevity of the network.

Renumbered and Amended by Chapter 344, 2021 General Session

63A-16-509 Monument Replacement and Restoration Committee.

(1) As used in this section:
(a) "Committee" means the Monument Replacement and Restoration Committee created in this section.
(b) "Corner" means the same as that term is defined in Section 17-73-101.
(c) "Monument" means the same as that term is defined in Section 17-73-101.

(2)
(a) There is created the Monument Replacement and Restoration Committee composed of the following seven members:
(i) five members appointed by an organization or association that represents Utah counties:
(A) that have knowledge and understanding of the Public Land Survey System; and
(B) who each represents a different county; and
(ii) two members, appointed by the center, who have a knowledge and understanding of the Public Land Survey System.
(b)
(i) Except as provided in Subsection (2)(b)(ii), a member appointed to the committee is appointed for a four-year term.
(ii) The director of the center shall, at the time an entity appoints or reappoints an individual to serve on the committee, adjust the length of the appointed individual's term, as necessary, to ensure that the terms of committee members are staggered so that approximately half of the committee members are appointed every two years.

(iii) When a vacancy occurs on the committee for any reason, the replacement appointee shall serve on the committee for the unexpired term.

(c) The committee shall elect one committee member to serve as chair of the committee for a term of two years.

(d) A majority of the committee constitutes a quorum, and the action of a majority of a quorum constitutes the action of the committee.

(e)

(i) The center shall provide staff support to the committee.

(ii) An individual who is a member of the committee may not serve as staff to the committee.

(f) A member of the committee may not receive compensation for the member's service on the committee.

(g) The committee may adopt bylaws to govern the committee's operation.

(3)

(a) The committee shall administer a grant program to assist counties in maintaining and protecting corners or monuments.

(b) A county wishing to receive a grant under the program described in Subsection (3)(a) shall submit to the committee an application that:

(i) identifies one or more monuments in the county that are in need of protection or rehabilitation;

(ii) establishes a plan that is consistent with federal law or rule to protect or rehabilitate each monument identified under Subsection (3)(b)(i); and

(iii) requests a specific amount of funding to complete the plan established under Subsection (3)(b)(ii).

(c) The committee shall:

(i) adopt criteria to:

(A) evaluate whether a monument identified by a county under Subsection (3)(b)(i) needs protection or rehabilitation; and

(B) identify which monuments identified by a county under Subsection (3)(b)(i) have the greatest need of protection or rehabilitation;

(ii) evaluate each application submitted by a county under Subsection (3)(b) using the criteria adopted by the committee under Subsection (3)(c)(i);

(iii) subject to sufficient funding and Subsection (3)(d), award grants to counties whose applications are most favorably evaluated under Subsection (3)(c)(ii); and

(iv) establish a date by which a county awarded a grant under Subsection (3)(c)(iii) shall report back to the committee.

(d) The committee may not award a grant to a county under this section in an amount greater than $100,000.

(4) A county that is awarded a grant under this section shall:

(a) document the work performed by the county, pursuant to the plan established by the county under Subsection (3)(b)(ii), to protect or rehabilitate a monument; and

(b) before the date established under Subsection (3)(c)(iv), report to the committee on the work performed by the county.

(5)

(a) If the committee has not expended all of the funds appropriated to the committee by the Legislature for the fulfillment of the committee's duties under this section before December 31, 2017, the committee shall disburse any remaining funds equally among all counties that have established a preservation fund by ordinance as provided in Section 17-63-710.

(b) A county to which the center has disbursed funds under Subsection (5)(a) shall:

(i) deposit the funds into the county's preservation fund; and
(ii) expend the funds, in consultation with the committee, for the maintenance and preservation of monuments in the county.

Amended by Chapter 17, 2025 Special Session 1

Part 6
Utah Public Notice Website

63A-16-601 Utah Public Notice Website -- Establishment and administration.

(1) As used in this part:
(a) "Executive board" means the same as that term is defined in Section 67-1-2.5.
(b) "Public body" means the same as that term is defined in Section 52-4-103.
(c) "Public information" means a public body's public notices, minutes, audio recordings, and other materials that are required to be posted to the website under Title 52, Chapter 4, Open and Public Meetings Act, or other statute or state agency rule.
(d) "Website" means the Utah Public Notice Website created in this section.
(2) There is created the Utah Public Notice Website to be administered by the division.
(3) The website shall consist of an Internet website provided to assist the public to find posted public information.
(4) The Division of Archives and Records Service, with the technical assistance of the Division of Technology Services, shall create the website that shall:
(a) allow a public body, or other certified entity, to easily post any public information, including the contact information required under Subsections 17B-1-303(9) and 17D-1-106(1)(b)(ii);
(b) allow the public to easily search the public information by:
(i) public body name;
(ii) date of posting of the notice;
(iii) date of any meeting or deadline included as part of the public information; and
(iv) any other criteria approved by the Division of Archives and Records Service;
(c) allow the public to easily search and view past, archived public information;
(d) allow an individual to subscribe to receive updates and notices associated with a public body or a particular type of public information;
(e) have a unique and simplified website address;
(f) be directly accessible via a link from the main page of the official state website; and
(g) allow a newspaper to request and automatically receive a transmission of a posting to the website as the posting occurs;
(h) include other links, features, or functionality that will assist the public in obtaining and reviewing public information posted on the website, as may be approved by the division; and
(i) be guided by the principles described in Subsection 63A-16-202(2).
(5)
(a) Subject to Subsection (5)(b), the Division of Archives and Records Service and the governor's office shall coordinate to ensure that the website, the database described in Section 67-1-2.5, and the website described in Section 67-1-2.5 automatically share appropriate information in order to ensure that:
(i) an individual who subscribes to receive information under Subsection (4)(d) for an executive board automatically receives notifications of vacancies on the executive board that will be

publicly filled, including a link to information regarding how an individual may apply to fill the vacancy; and

(ii) an individual who accesses an executive board's information on the website has access to the following through the website:

(A) the executive board's information in the database, except an individual's physical address, e-mail address, or phone number; and

(B) the portal described in Section 67-1-2.5 through which an individual may provide input on an appointee to, or member of, the executive board.

(b) The Division of Archives and Records Service and the governor's office shall comply with Subsection (5)(a) as soon as reasonably possible within existing funds appropriated to the Division of Archives and Records Service and the governor's office.

(6) Before August 1 of each year, the Division of Archives and Records Service shall:

(a) identify each executive board that is a public body that did not submit to the website a notice of a public meeting during the previous fiscal year; and

(b) report the name of each identified executive board to the governor's boards and commissions administrator.

(7) The Division of Archives and Records Service is responsible for:

(a) establishing and maintaining the website, including the provision of equipment, resources, and personnel as is necessary;

(b) providing a mechanism for public bodies or other certified entities to have access to the website for the purpose of posting and modifying public information; and

(c) maintaining an archive of all public information posted to the website.

(8) A public body is responsible for the content the public body is required to post to the website and the timing of posting of that information.

Renumbered and Amended by Chapter 84, 2021 General Session
Amended by Chapter 344, 2021 General Session, (Coordination Clause)
Renumbered and Amended by Chapter 344, 2021 General Session
Amended by Chapter 355, 2021 General Session

63A-16-602 Notice and training by the Division of Archives and Records Service.

(1) The Division of Archives and Records Service shall provide notice of the provisions and requirements of this chapter to all public bodies that are subject to the provision of Subsection 52-4-202(3)(a).

(2) The Division of Archives and Records Service shall, as necessary, provide periodic training on the use of the website to public bodies that are authorized to post notice on the website.

Amended by Chapter 435, 2023 General Session

Part 8
Single Sign-on Portal

63A-16-801 Definitions.

As used in this part:

(1) "Business data" means data collected by the state about a person doing business in the state.

(2) "Single sign-on business portal" means the web portal described in Section 63A-16-802.

(3) "Single sign-on citizen portal" means the web portal described in Section 63A-16-803.
(4) "Web portal" means an Internet webpage that can be accessed by a person that enters the person's unique user information in order to access secure information.

Renumbered and Amended by Chapter 344, 2021 General Session

63A-16-802 Single sign-on business portal -- Creation.

(1) The division shall, in consultation with the entities described in Subsection (4), design and create a single sign-on business portal that is:
  (a) a web portal through which a person may access data described in Subsection (2), as agreed upon by the entities described in Subsection (4); and
  (b) secure, centralized, and interconnected.
(2) The division shall ensure that the single sign-on business portal allows a person doing business in the state to access, at a single point of entry, all relevant state-collected business data about the person, including information related to:
  (a) business registration;
  (b) workers' compensation;
  (c) beginning December 1, 2020, tax liability and payment; and
  (d) other information collected by the state that the department determines is relevant to a person doing business in the state.
(3) The division shall develop the single sign-on business portal:
  (a) using an open platform that:
    (i) facilitates participation in the web portal by a state entity;
    (ii) allows for optional participation by a political subdivision of the state; and
    (iii) contains a link to the State Tax Commission website; and
  (b) in a manner that anticipates the creation of the single sign-on citizen portal described in Section 63A-16-803.
(4) In developing the single sign-on business portal, the division shall consult with:
  (a) the Department of Commerce;
  (b) the State Tax Commission;
  (c) the Labor Commission;
  (d) the Department of Workforce Services;
  (e) the Governor's Office of Planning and Budget;
  (f) the Utah League of Cities and Towns;
  (g) the Utah Association of Counties; and
  (h) the business community that is likely to use the single sign-on business portal.
(5) The division shall ensure that the single sign-on business portal is fully operational no later than May 1, 2021.

Renumbered and Amended by Chapter 344, 2021 General Session
Amended by Chapter 382, 2021 General Session

63A-16-803 Single sign-on citizen portal -- Creation.

(1) The division shall, in consultation with the entities described in Subsection (4), design and create a single sign-on citizen portal that is:
  (a) a web portal through which an individual may access information and services described in Subsection (2), as agreed upon by the entities described in Subsection (4); and
  (b) secure, centralized, and interconnected.

(2) The division shall ensure that the single sign-on citizen portal allows an individual, at a single point of entry, to:
(a) access and submit an application for:
(i) medical and support programs including:
(A) a medical assistance program administered under Title 26B, Chapter 3, Health Care - Administration and Assistance, including Medicaid;
(B) the Children's Health Insurance Program under Title 26B, Chapter 3, Part 9, Utah Children's Health Insurance Program;
(C) the Primary Care Network as defined in Section 26B-3-211; and
(D) the Women, Infants, and Children program administered under 42 U.S.C. Sec. 1786;
(ii) unemployment insurance under Title 35A, Chapter 4, Employment Security Act;
(iii) workers' compensation under Title 34A, Chapter 2, Workers' Compensation Act;
(iv) employment with a state agency;
(v) a driver license or state identification card renewal under Title 53, Chapter 3, Uniform Driver License Act;
(vi) a birth or death certificate under Title 26B, Chapter 8, Part 1, Vital Statistics; and
(vii) a hunting or fishing license under Title 23A, Chapter 4, Licenses, Permits, Certificates of Registration, and Tags;
(b) access the individual's:
(i) transcripts from an institution of higher education listed in Section 53H-1-102; and
(ii) immunization records maintained by the Department of Health and Human Services;
(c) register the individual's vehicle under Title 41, Chapter 1a, Part 2, Registration, with the Motor Vehicle Division of the State Tax Commission;
(d) file the individual's state income taxes under Title 59, Chapter 10, Individual Income Tax Act, beginning December 1, 2020;
(e) access information about positions available for employment with the state; and
(f) access any other service or information the department determines is appropriate in consultation with the entities described in Subsection (4).
(3) The division shall develop the single sign-on citizen portal using an open platform that:
(a) facilitates participation in the portal by a state entity;
(b) allows for optional participation in the portal by a political subdivision of the state; and
(c) contains a link to the State Tax Commission website.
(4) In developing the single sign-on citizen portal, the department shall consult with:
(a) each state executive branch agency that administers a program, provides a service, or manages applicable information described in Subsection (2);
(b) the Utah League of Cities and Towns;
(c) the Utah Association of Counties; and
(d) other appropriate state executive branch agencies.
(5) The division shall ensure that the single sign-on citizen portal is fully operational no later than January 1, 2025.
(6)
(a) As used in this Subsection (6):
(i) "Digital verifiable credential" means the same as that term is defined in Section 63A-16-108.
(ii) "Digital verifiable record" means the same as that term is defined in Section 63A-16-108.
(iii) "Offender" means the same as that term is defined in Section 64-13-1.
(b) No later than January 1, 2027, the division shall ensure that a version of the single sign-on citizen portal is made available to an individual who:
(i) is a Utah resident; and

(ii)
(A) is an offender; or
(B) previously was an offender resulting from a conviction that occurred on or after January 1, 2027.
(c) The portal described in Subsection (6)(b) shall include:
(i) if possible, an electronic copy of, or link to, the individual's digital verifiable credentials and digital verifiable records; and
(ii) if available:
(A) information on the individual's debts such as restitution, court costs, fines, tax obligations, alimony, child support, other court-ordered payments, and similar debts; and
(B) links or another method to access more information concerning the debts listed in Subsection (6)(c)(ii)(A).

Amended by Chapter 9, 2025 Special Session 1

63A-16-804 Report.
(1) The division shall report to the Government Operations Interim Committee before November 30 of each year regarding:
(a) the progress the division has made in developing the single sign-on business portal and the single sign-on citizen portal and, once that development is complete, regarding the operation of the single sign-on business portal and the single sign-on citizen portal;
(b) the division's goals and plan for each of the next five years to fulfill the division's responsibilities described in this part; and
(c) whether the division recommends any change to the single sign-on fee being charged under Section 13-1-2.
(2) The Government Operations Interim Committee shall annually:
(a) review the single sign-on fee being charged under Section 13-1-2;
(b) determine whether the revenue from the single sign-on fee is adequate for designing and developing and then, once developed, operating and maintaining the single sign-on web portal; and
(c) make any recommendation to the Legislature that the committee considers appropriate concerning:
(i) the single sign-on fee; and
(ii) the development or operation of the single sign-on business portal and the single sign-on citizen portal.

Amended by Chapter 169, 2022 General Session

Part 9
Technology Innovation Act

63A-16-901 Definitions.
As used in this part:
(1) "Executive branch agency" means a department, division, or other agency within the executive branch of state government.

(2) "Governor's budget office" means the Governor's Office of Planning and Budget, created in Section 63J-4-201.
(3) "Review board" means the Architecture Review Board established within the department.
(4) "Technology innovation" means a new information technology not previously in use or a substantial adaptation or modification of an existing information technology.
(5) "Technology proposal" means a proposal to implement a technology innovation designed to result in a greater efficiency in a government process or a cost saving in the delivery of a government service, or both.

Renumbered and Amended by Chapter 344, 2021 General Session
Amended by Chapter 382, 2021 General Session

63A-16-902 Submitting a technology proposal -- Review process.
(1) Multiple executive branch agencies may jointly submit to the chief information officer a technology proposal, on a form or in a format specified by the division.
(2) The chief information officer shall transmit to the review board each technology proposal the chief information officer determines meets the form or format requirements of the division.
(3) The review board shall:
  (a) conduct a technical review of a technology proposal transmitted by the chief information officer;
  (b) determine whether the technology proposal merits further review and consideration by the chief information officer, based on the technology proposal's likelihood to:
    (i) be capable of being implemented effectively; and
    (ii) result in greater efficiency in a government process or a cost saving in the delivery of a government service, or both; and
  (c) transmit a technology proposal to the chief information officer and to the governor's budget office, if the review board determines that the technology proposal merits further review and consideration by the chief information officer.

Renumbered and Amended by Chapter 344, 2021 General Session

63A-16-903 Chief information officer review and approval of technology proposals.
(1) The chief information officer shall review and evaluate each technology proposal that the review board transmits to the chief information officer.
(2) The chief information officer may approve and recommend that the division provide funding from legislative appropriations for a technology proposal if, after the chief information officer's review and evaluation of the technology proposal:
  (a) the chief information officer determines that there is a reasonably good likelihood that the technology proposal:
    (i) is capable of being implemented effectively; and
    (ii) will result in greater efficiency in a government process or a cost saving in the delivery of a government service, or both; and
  (b) the chief information officer receives approval from the governor's budget office for the technology proposal.
(3) The chief information officer may:
  (a) prioritize multiple approved technology proposals based on their relative likelihood of achieving the goals described in Subsection (2); and

(b) recommend funding based on the chief information officer's prioritization under Subsection (3)(a).

(4) The division shall:

(a) track the implementation and success of a technology proposal approved by the chief information officer;

(b) evaluate the level of the technology proposal's implementation effectiveness and whether the implementation results in greater efficiency in a government process or a cost saving in the delivery of a government service, or both; and

(c) report the results of the division's tracking and evaluation:

(i) to the chief information officer, as frequently as the chief information officer requests; and

(ii) at least annually to the Government Operations Interim Committee.

(5) The division may expend money appropriated by the Legislature to pay for expenses incurred by executive branch agencies in implementing a technology proposal that the chief information officer has approved.

Amended by Chapter 169, 2022 General Session

Part 11
Utah Cyber Center

63A-16-1101 Definitions.

As used in this part:

(1) "Cyber Center" means the Utah Cyber Center created in Section 63A-16-1102.

(2) "Data breach" means the unauthorized access, acquisition, disclosure, loss of access, or destruction of:

(a) personal data affecting 500 or more individuals; or

(b) data that compromises the security, confidentiality, availability, or integrity of the computer systems used or information maintained by the governmental entity.

(3) "Governmental entity" means the same as that term is defined in Section 63G-2-103.

(4) "Local education agency" means the same as that term is defined in Section 53E-1-102.

(5) "Personal data" means information that is linked or can be reasonably linked to an identified individual or an identifiable individual.

Amended by Chapter 60, 2026 General Session

63A-16-1102 Utah Cyber Center -- Creation -- Duties.

(1)

(a) There is created within the division the Utah Cyber Center.

(b) The chief information security officer appointed under Section 63A-16-210 shall serve as the director of the Cyber Center.

(2) The division shall operate the Cyber Center in partnership with the following entities within the Department of Public Safety created in Section 53-1-103:

(a) the Statewide Information and Analysis Center;

(b) the State Bureau of Investigation created in Section 53-10-301; and

(c) the Division of Emergency Management created in Section 53-2a-103.

(3) In addition to the entities described in Subsection (2), the Cyber Center shall collaborate with:

(a) the Cybersecurity Commission created in Section 63C-27-201;
(b) the Office of the Attorney General;
(c) the Utah Education and Telehealth Network created in Section 53H-4-213.4;
(d) the Department of Environmental Quality created in Section 19-1-104;
(e) appropriate federal partners, including the Federal Bureau of Investigation and the Cybersecurity and Infrastructure Security Agency;
(f) appropriate information sharing and analysis centers;
(g) information technology directors, cybersecurity professionals, or equivalent individuals representing political subdivisions in the state; and
(h) any other person the division believes is necessary to carry out the duties described in Subsection (4).

(4) The Cyber Center shall, within legislative appropriations:
(a) by January 1, 2027, develop a statewide strategic cybersecurity plan for governmental entities;
(b) with respect to executive branch agencies and local education agencies:
(i) identify, analyze, and, when appropriate, mitigate cyber threats and vulnerabilities;
(ii) coordinate cybersecurity resilience planning;
(iii) provide cybersecurity incident response capabilities; and
(iv) recommend to the division standards, policies, or procedures to increase the cyber resilience of executive branch agencies individually or collectively;
(c) at the request of a governmental entity or local education agency, coordinate cybersecurity incident response for a data breach affecting the governmental entity or local education agency in accordance with Section 63A-19-405;
(d) promote cybersecurity standards and best practices for governmental entities and local education agencies in alignment with the controls published by the Center for Internet Security;
(e) share cyber threat intelligence with governmental entities and, through the Statewide Information and Analysis Center, with other public and private sector organizations;
(f) serve as the state cybersecurity incident response repository to receive reports of breaches of system security, including notification or disclosure under Section 13-44-202 and data breaches under Section 63A-16-1103;
(g) develop incident response plans to coordinate federal, state, local, and private sector activities and manage the risks associated with an attack or malfunction of critical information technology systems within the state;
(h) coordinate, develop, and share best practices for cybersecurity resilience in the state;
(i) identify sources of funding to make cybersecurity improvements throughout the state;
(j) develop a sharing platform to provide resources based on information, recommendations, and best practices; and
(k) partner with institutions of higher education and other public and private sector organizations to increase the state's cyber resilience.

Amended by Chapter 60, 2026 General Session

63A-16-1103 Assistance to governmental entities and local education agencies -- Records.

(1) The Cyber Center shall provide a governmental entity or local education agency with assistance in responding to a data breach reported under Section 63A-19-405, which may include:
(a) conducting all or part of an internal investigation into the data breach;

(b) assisting law enforcement with the law enforcement investigation if needed;
(c) determining the scope of the data breach;
(d) assisting the governmental entity in restoring the reasonable integrity of the system; or
(e) providing any other assistance in response to the reported data breach.
(2)
(a) A governmental entity that is required to submit information under Section 63A-19-405 shall provide records to the Cyber Center as a shared record in accordance with Section 63G-2-206.
(b) The following information may be deemed confidential and may only be shared as provided in Section 63G-2-206:
(i) the information provided to the Cyber Center by a governmental entity under Section 63A-19-405; and
(ii) information produced by the Cyber Center in response to a report of a data breach under Subsection (1).

Amended by Chapter 60, 2026 General Session

63A-16-1104 Utah Cyber Center Restricted Account -- Creation -- Funding -- Uses.
(1) There is created within the General Fund a restricted account known as the "Utah Cyber Center Restricted Account."
(2) The restricted account consists of:
(a) appropriations made to the account by the Legislature;
(b) federal grant funding;
(c) private donations, grants, gifts, or bequests; and
(d) interest earned on the account.
(3) The Cyber Center shall administer the account.
(4) Subject to appropriations, the Cyber Center shall use restricted account money for:
(a) developing and implementing the statewide strategic cybersecurity plan;
(b) providing cybersecurity tools, services, and incident response capabilities to governmental entities and local education agencies;
(c) conducting cybersecurity assessments and audits for governmental entities and local education agencies;
(d) providing cybersecurity training and awareness programs;
(e) acquiring and maintaining cybersecurity technology and infrastructure;
(f) supporting cyber threat intelligence sharing activities; and
(g) any other activities necessary to carry out the duties described in Section 63A-16-1102.
(5) The interest earned on account money shall be deposited into the account.

Enacted by Chapter 60, 2026 General Session

Part 13
Critical Infrastructure Cyber Security

63A-16-1301 Definitions.
As used in this part:

(1) "Critical infrastructure" means systems and assets operated or maintained by a governmental entity that are vital to the governmental entity's jurisdiction such that the incapacity or destruction of the systems and assets would have a debilitating impact on security, economic security, or public health, including:
  (a) emergency services communications systems;
  (b) electrical power systems;
  (c) water and wastewater systems;
  (d) transportation management systems;
  (e) data centers and networks; and
  (f) systems that store or process sensitive data or classified information.
(2) "Cyber Center" means the Utah Cyber Center created in Section 63A-16-1102.
(3) "Foreign adversary" means a country listed in 15 C.F.R. Sec. 791.4 as that regulation existed on January 1, 2026.
(4) "Foreign principal" means:
  (a) the government or an official of the government of a foreign adversary;
  (b) a political party or member of a political party or subdivision of a political party of a foreign adversary;
  (c) an entity, including a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having a principal place of business in a foreign adversary, or a subsidiary of the entity;
  (d) an individual who is domiciled in a foreign adversary and is not a citizen or lawful permanent resident of the United States; or
  (e) an individual, entity, or collection of individuals or entities described in Subsections (4)(a) through (d) having a controlling interest in a partnership, association, corporation, organization, trust, or other legal entity or subsidiary formed for the purpose of owning real property.
(5) "Governmental entity" means the same as that term is defined in Section 63G-2-103.
(6) "Information and communications technology" means any technology, system, device, application, or service used to create, collect, store, process, transmit, receive, display, or exchange information by electronic or digital means, including computers, software, networks, telecommunications systems, and related infrastructure.

Enacted by Chapter 65, 2026 General Session

63A-16-1302 Foreign adversary threats to critical infrastructure -- Guidance and assessments.

(1) The Cyber Center shall, within available resources and in coordination with federal agencies, develop and maintain guidance for governmental entities on protecting critical infrastructure from foreign adversary cybersecurity threats.
(2) The guidance described in Subsection (1) shall include:
  (a) best practices for identifying and assessing security risks when foreign adversary technology, software, or services are used in connection with critical infrastructure;
  (b) recommended security controls and monitoring procedures for critical infrastructure that utilizes foreign adversary technology;
  (c) procedures for limiting foreign adversary access to critical infrastructure systems and data;
  (d) methods for assessing and documenting risks associated with foreign adversary involvement in critical infrastructure;

(e) recommendations for transitioning away from foreign adversary technology in critical infrastructure when feasible and cost effective;
(f) identification of categories of critical infrastructure that present heightened security concerns if foreign adversary technology is involved; and
(g) recommendations for a comprehensive manual operations contingency plan for critical infrastructure that:
(i) details non-networked, non-automated, and manually executable procedures; and
(ii) is sufficient to sustain core operational functions of the critical infrastructure in the event of a significant cyber incident that renders automated or networked control systems unreliable or inoperable.
(3) The Cyber Center shall:
(a) review and update the guidance described in Subsection (1) at least annually;
(b) make the guidance readily accessible to governmental entities through the division's website; and
(c) include information on foreign adversary threats to critical infrastructure in briefings and materials provided to governmental entities on cybersecurity matters.
(4) A governmental entity that operates or maintains critical infrastructure may request a security assessment from the Cyber Center if the governmental entity:
(a) is considering procurement of technology, software, or services from a foreign adversary for use in critical infrastructure; or
(b) identifies that critical infrastructure currently utilizes technology, software, or services from a foreign adversary.
(5) The Cyber Center shall prioritize security assessment requests under Subsection (4) based on:
(a) the sensitivity of the data or systems involved;
(b) the potential impact of a compromise on security, economic security, or public health;
(c) available Cyber Center resources; and
(d) other relevant factors determined by the Cyber Center.
(6) A security assessment conducted under Subsection (4) may include:
(a) an evaluation of potential security vulnerabilities associated with the foreign adversary technology, software, or services;
(b) an assessment of potential risks to critical infrastructure systems and data;
(c) an analysis of the potential impact of a compromise of the critical infrastructure on the governmental entity's operations, public safety, or economic security;
(d) recommendations for security measures or contract provisions to mitigate identified risks; and
(e) identification of alternative technology, software, or services that may present lower security risks.
(7) In conducting a security assessment under Subsection (4), the Cyber Center may:
(a) coordinate with the Department of Public Safety and other relevant governmental entities; and
(b) coordinate with and utilize resources from federal agencies, including the Cybersecurity and Infrastructure Security Agency, as available.
(8) If the Cyber Center identifies significant security risks associated with foreign adversary technology in critical infrastructure, the Cyber Center may:
(a) notify the chief information officer and the affected governmental entity of the identified risks;
(b) recommend that the governmental entity implement enhanced security monitoring or controls;
(c) recommend that the governmental entity develop a plan to transition to alternative technology; or
(d) recommend that the matter be referred to appropriate state or federal law enforcement or security agencies.

(9) A governmental entity that operates or maintains critical infrastructure shall, when reporting a data breach to the Cyber Center under Section 63A-19-405, indicate whether the data breach involved technology, software, or services from a foreign adversary.
(10) Except as provided in Subsection (12), a security assessment or recommendation provided under this section is advisory only and does not:
(a) prohibit a governmental entity from entering into a contract or making a procurement decision; or
(b) require a governmental entity to transition away from existing technology, software, or services.
(11) Information obtained by the Cyber Center in conducting a security assessment under this section is protected in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.
(12) On or after July 1, 2026, a governmental entity or critical infrastructure provider may not:
(a) enter into or renew a contract with a vendor for information and communications technology that the Cyber Center has included on the prohibited list described in Subsection (13); or
(b) otherwise place into service any additional information and communications technology that the Cyber Center has included on the prohibited list described in Subsection (13).
(13)
(a) On or after July 1, 2026, the Cyber Center shall publish and maintain a list of prohibited companies and information and communications technologies that the Cyber Center has assessed pose a risk of providing a foreign adversary with remote access to or control of critical infrastructure.
(b) The prohibited list shall include, at a minimum, companies and technologies that:
(i) appear on the Pentagon 1260H list;
(ii) appear on the Federal Communications Commission Covered List; or
(iii) are a re-labeled version of, or are produced by a subsidiary of a company included in a technology described in Subsection (13)(b)(i) or (ii), and for which the Cyber Center has identified that a reasonable alternative provider exists.
(14) Notwithstanding Subsection (12), a governmental entity or critical infrastructure provider may use a technology included on the prohibited list described in Subsection (13) if no reasonable alternative exists to address the need relevant to state critical infrastructure.

Enacted by Chapter 65, 2026 General Session

63A-16-1303 Foreign adversary prohibition in critical infrastructure.
(1) A company, governmental entity, or other entity that constructs, repairs, maintains, or operates critical infrastructure, or that otherwise has significant access to critical infrastructure, may not enter into a contract or other agreement relating to critical infrastructure in this state with a foreign principal from a foreign adversary if the agreement would allow the foreign principal to directly or remotely access or control critical infrastructure in this state.
(2) Notwithstanding Subsection (1), a company, governmental entity, or other entity may enter into a contract described in Subsection (1) with a foreign principal from a foreign adversary if no reasonable alternative exists to address the need relevant to state critical infrastructure.

Enacted by Chapter 65, 2026 General Session

Chapter 17
Utah State Personnel Management Act

Part 1
General Provisions

63A-17-101 Title.

This chapter is known as the "Utah State Personnel Management Act."

Renumbered and Amended by Chapter 344, 2021 General Session

63A-17-102 Definitions.

As used in this chapter:

(1) "Agency" means any department or unit of Utah state government with authority to employ personnel.

(2) "Career service" means positions under schedule B as defined in Section 63A-17-301.

(3) "Career service employee" means an employee who has successfully completed a probationary period of service in a position covered by the career service.

(4) "Career service status" means status granted to employees who successfully complete probationary periods for competitive career service positions.

(5) "Classified service" means those positions subject to the classification and compensation provisions of Section 63A-17-307.

(6) "Controlled substance" means controlled substance as defined in Section 58-37-101.

(7)

(a) "Demotion" means a disciplinary action resulting in a reduction of an employee's current actual wage.

(b) "Demotion" does not mean:

(i) a nondisciplinary movement of an employee to another position without a reduction in the current actual wage; or

(ii) a reclassification of an employee's position under the provisions of Subsection 63A-17-307(3) and rules made by the department.

(8) "Director" means the director of the division.

(9) "Disability" means a physical or mental disability as defined and protected under the Americans with Disabilities Act, 42 U.S.C. Section 12101 et seq.

(10) "Division" means the Division of Human Resource Management, created in Section 63A-17-105.

(11) "Employee" means any individual in a paid status covered by the career service or classified service provisions of this chapter.

(12) "Examining instruments" means written or other types of proficiency tests.

(13) "Human resource function" means those duties and responsibilities specified:

(a) under Section 63A-17-106;

(b) under rules of the division; and

(c) under other state or federal statute.

(14) "Market comparability adjustment" means a salary range adjustment determined necessary through a market survey of salary data and other relevant information.

(15) "Probationary employee" means an employee serving a probationary period in a career service position but who does not have career service status.

(16) "Probationary period" means that period of time determined by the division that an employee serves in a career service position as part of the hiring process before career service status is granted to the employee.
(17) "Probationary status" means the status of an employee between the employee's hiring and the granting of career service status.
(18) "Structure adjustment" means a division modification of salary ranges.
(19) "Temporary employee" means a career service exempt employee described in Subsection 63A-17-301(1)(r).
(20) "Total compensation" means salaries and wages, bonuses, paid leave, group insurance plans, retirement, and all other benefits offered to state employees as inducements to work for the state.

Amended by Chapter 362, 2026 General Session

63A-17-103 Principles guiding interpretation of chapter and adoption of rules -- Merit principles.

(1) The division shall establish a career service system designed in a manner that will provide for the effective implementation of the following merit principles:
  (a) recruiting, selecting, and advancing employees on the basis of their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment;
  (b) providing for equitable and competitive compensation;
  (c) training employees as needed to assure high-quality performance;
  (d) retaining employees on the basis of the adequacy of their performance and separating employees whose inadequate performance cannot be corrected;
  (e) fair treatment of applicants and employees in all aspects of human resource administration without regard to race, color, religion, sex, national origin, political affiliation, age, or disability, and with proper regard for their privacy and constitutional rights as citizens;
  (f) providing information to employees regarding their political rights and the prohibited practices under the Hatch Act; and
  (g) providing a formal procedure for advancing grievances of employees:
    (i) without discrimination, coercion, restraint, or reprisal; and
    (ii) in a manner that is fair, expeditious, and inexpensive for the employee and the agency.
(2) The career service system described in Subsection (1) may not prescribe a minimum educational requirement for employment, except when a minimum educational qualification is legally required to perform the duties of the position.
(3) As part of the career service system described in Subsection (1), the department shall:
  (a) consider comparable experience or ability as equal to education in determining a candidate's satisfaction of minimum qualifications, except when a minimum educational qualification is legally required to perform the duties of the position; and
  (b) ensure that position descriptions and job postings published by agencies for career service positions are based on the specific skills and competencies required to perform those jobs.
(4) Within existing resources, the department shall create supporting materials that may be used by a political subdivision that chooses to implement competency-based hiring principles that are the same as or similar to those principles described in Subsections (2) and (3).
(5) The principles in Subsections (1) through (3) shall govern interpretation and implementation of this chapter.

Amended by Chapter 53, 2021 General Session
Renumbered and Amended by Chapter 344, 2021 General Session

63A-17-104 Discriminatory or prohibited employment practices.

The state, the state's officers, and employees shall be governed by the provisions of Section 34A-5-106 of the Utah Antidiscrimination Act concerning discriminatory or prohibited employment practices.

Renumbered and Amended by Chapter 344, 2021 General Session

63A-17-105 Division of Human Resource Management created -- Director -- Chief Human Resources Officer -- Staff.

(1) There is created within the department, the Division of Human Resource Management.
(2) The division shall be administered by a director appointed by the executive director, with the approval of the governor.
(3) The director shall:
  (a) be a person with experience in human resource management;
  (b) be accountable to the executive director for the director's performance in office;
  (c) serve as the chief human resource officer for the state executive branch; and
  (d) advise the governor on human resource matters and policies.

Amended by Chapter 397, 2024 General Session

63A-17-106 Responsibilities of the director.

(1) As used in this section, "miscarriage" means the spontaneous or accidental loss of a fetus, regardless of gestational age or the duration of the pregnancy.
(2) The director shall have full responsibility and accountability for the administration of the statewide human resource management system.
(3) Except as provided in Section 63A-17-201, an agency may not perform human resource functions without the consent of the director.
(4) Statewide human resource management rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall take precedence if there is a conflict with agency rules, policies, or practices.
(5) The division may operate as an internal service fund agency in accordance with Section 63J-1-410 for the human resource functions the division provides.
(6) The director shall:
  (a) develop, implement, and administer a statewide program of human resource management that will:
    (i) aid in the efficient execution of public policy;
    (ii) foster careers in public service for qualified employees; and
    (iii) render assistance to state agencies in performing their missions;
  (b) design and administer the state pay plan;
  (c) design and administer the state classification system and procedures for determining schedule assignments;
  (d) design and administer the state recruitment and selection system;
  (e) administer agency human resource practices and ensure compliance with federal law, state law, and state human resource rules, including equal employment opportunity;
  (f) consult with agencies on decisions concerning employee corrective action and discipline;

(g) maintain central personnel records;
(h) perform those functions necessary to implement this chapter unless otherwise assigned or prohibited;
(i) perform duties assigned by the governor, executive director, or statute;
(j) make rules for human resource management, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
(k) establish and maintain a management information system that will furnish the governor, the Legislature, and agencies with current information on authorized positions, payroll, and related matters concerning state human resources;
(l) conduct research and planning activities to:
(i) determine and prepare for future state human resource needs;
(ii) develop methods for improving public human resource management; and
(iii) propose needed policy changes to the governor;
(m) study the character, causes, and extent of discrimination in state employment and develop plans for its elimination through programs consistent with federal and state laws governing equal employment opportunity in employment;
(n) establish compensation policies and procedures for early voluntary retirement;
(o) confer with the heads of other agencies about human resource policies and procedures;
(p) submit an annual report to the executive director, the governor, and the Legislature; and
(q) assist with the development of a vacant position report required under Subsection 63J-1-201(2)(b)(vi).

(7)
(a) After consultation with the executive director, the governor, and the heads of other agencies, the director shall establish and coordinate statewide training programs, including training described in Subsection (7)(e).
(b) The programs developed under this Subsection (7) shall have application to more than one agency.
(c) The division may not establish training programs that train employees to perform highly specialized or technical jobs and tasks.
(d) The division shall ensure that any training program described in this Subsection (7) complies with Title 63G, Chapter 22, State Training and Certification Requirements.
(e)
(i) As used in this Subsection (7)(e):
(A) "Employee" means an employee included in an agency's pay for performance policy adopted in accordance with Section 63A-17-112.
(B) "Supervisor" means an individual in a position at an agency, as defined in Section 63A-17-112, that requires the regular supervision and performance evaluation of an employee.
(ii) A supervisor shall attend the training:
(A) within six months of being promoted or hired to the position of supervisor; and
(B) at least annually.
(iii) A supervisor's completion of training and effective use of training information and principles shall be considered in an evaluation of the supervisor's job performance.
(iv) The training shall include:
(A) effective employee management and evaluation methods based on the pay for performance management system described in Section 63A-17-112;
(B) instruction to improve supervisor and employee communications;
(C) best practices for recognizing and retaining high-performing employees;

(D) best practices for addressing poor-performing employees; and
(E) any other information and principles identified by the division to improve management or organizational effectiveness.

(8)
(a)
(i) The division may collect fees for training as authorized by this Subsection (8).
(ii) Training funded from General Fund appropriations shall be treated as a separate program within the department budget.
(iii) All money received from fees under this section will be accounted for by the department as a separate user driven training program.
(iv) The user training program includes the costs of developing, procuring, and presenting training and development programs, and other associated costs for these programs.
(b)
(i) Funds remaining at the end of the fiscal year in the user training program are nonlapsing.
(ii) Each year, as part of the appropriations process, the Legislature shall review the amount of nonlapsing funds remaining at the end of the fiscal year and may, by statute, require the department to lapse a portion of the funds.

(9) Rules described in Subsection (6)(j) shall provide for at least three work days of paid bereavement leave for an employee:
(a) following the end of the employee's pregnancy by way of miscarriage or stillbirth; or
(b) following the end of another individual's pregnancy by way of a miscarriage or stillbirth, if:
(i) the employee is the individual's spouse or partner;
(ii)
(A) the employee is the individual's former spouse or partner; and
(B) the employee would have been a biological parent of a child born as a result of the pregnancy;
(iii) the employee provides documentation to show that the individual intended for the employee to be an adoptive parent, as that term is defined in Section 81-13-101, of a child born as a result of the pregnancy; or
(iv) under a valid gestational agreement in accordance with Title 81, Chapter 5, Part 8, Gestational Agreement, the employee would have been a parent of a child born as a result of the pregnancy.

Amended by Chapter 426, 2025 General Session

63A-17-107 Services and fees -- Submission to rate committee.

The director shall, before charging a rate for services provided by the division's internal service fund to an executive branch agency:
(1) submit the proposed rates and cost analysis to the rate committee established in Section 63A-1-114; and
(2) obtain the approval of the Legislature as required under Section 63J-1-410.

Amended by Chapter 169, 2022 General Session

63A-17-108 Severability of provisions -- Compliance with requirements for federally aided programs.

(1) If any provision of this chapter or of any regulation or order issued thereunder or the application of any provision of this chapter to any person or circumstance is held invalid, the remainder of

this chapter and the application of provision of this chapter or regulation or orders issued under it to persons or circumstances other than those to which it is held invalid shall still be regarded as having the force and effect of law.

(2) If any part of this chapter is found to be in conflict with federal requirements which are a condition precedent to the allocation of federal funds to the state, the conflicting part of this chapter shall be inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and such findings shall not affect the operation of the remainder of this chapter in its application to the agencies concerned.

(3) Notwithstanding any provisions in this chapter to the contrary, no regulation shall be adopted which would deprive the state or any of its departments or institutions of federal grants or other forms of financial assistance, and the rules and regulations promulgated hereunder shall include standards, provisions, terms, and conditions for personnel engaged in the administration of federally aided programs, which shall, in all respects, comply with the necessary requirements for a qualified human resource system under the standards applicable to personnel engaged in the administration of federally aided programs.

Renumbered and Amended by Chapter 344, 2021 General Session

63A-17-109 Study of wildland fire related pay plans.

By no later than June 30, 2021, the division shall complete a comprehensive comparison of federal, state, and municipal wildland fire agencies or departments to recommend whether salary ranges should be adjusted for state employed wildland firefighters.

Enacted by Chapter 97, 2021 General Session

63A-17-110 State pay plans for DNR law enforcement officers and wildland firefighters.

(1) As used in this section:

(a) "Division of Forestry, Fire, and State Lands" means the division created in Section 65A-1-4 within the Department of Natural Resources.

(b) "Division of Law Enforcement" means the division created in Section 79-2-702 within the Department of Natural Resources.

(c) "DNR law enforcement officer" means an employee of the Department of Natural Resources who is designated as a law enforcement officer by law.

(d) "Wildland firefighter" means an employee of the Division of Forestry, Fire, and State Lands who is:

(i) trained in firefighter techniques; and

(ii) assigned to a position of hazardous duty.

(2) The director shall:

(a) coordinate directly with the Division of Forestry, Fire, and State Lands and the Division of Law Enforcement to establish specialized state pay plans for DNR law enforcement officers and wildland firefighters that:

(i) meets the requirements of Section 63A-17-307;

(ii) distinguishes the salary range and proposed pay progression for each DNR peace officer;

(iii) distinguishes the salary range for each wildland firefighter classification;

(iv) includes for each DNR law enforcement officer and wildland firefighter classification:

(A) the minimum qualifications; and

(B) any training requirements; and

(v) provides standards for:

(A) performance evaluation; and
(B) promotion; and
(b) include, in the plan described in Subsection 63A-17-307(5), recommendations on funding and salary increases for DNR law enforcement officers and wildland firefighters.

Amended by Chapter 154, 2025 General Session

63A-17-112 Pay for performance management system -- Employees paid for performance.

(1) As used in this section:
(a)
(i) "Agency" means, except as provided in Subsection (1)(a)(iii), the same as that term is defined in Section 63A-17-102.
(ii) "Agency" includes an independent entity that has decided to participate in the pay for performance management system in accordance with Subsection (6)(a).
(iii) "Agency" does not include:
(A) the State Board of Education;
(B) the Office of the State Treasurer;
(C) Office of the State Auditor;
(D) Office of the State Attorney General;
(E) Utah System of Higher Education;
(F) the Legislature;
(G) the judiciary; or
(H) an independent entity that chooses not to participate in the pay for performance management system under this section.
(b)
(i) "Employee" means an employee of an agency.
(ii) "Employee" includes the following individuals only if the agency employing the individuals determines that the individuals may participate in the agency's pay for performance policy:
(A) an individual in a position that is not eligible to receive a retirement benefit under Title 49, Utah State Retirement and Insurance Benefit Act; or
(B) an individual that an agency hires for a time-limited position that will last fewer than 12 consecutive months.
(c) "Independent entity" means the same as that term is defined in Section 63E-1-102.
(d) "Pay for performance" means a plan for incentivizing an employee to meet or exceed production or performance goals, in which the plan is well-defined before work begins, specific goals and targets for the employee are determined, and measurement procedures are in place.
(e) "Pay for performance management system" means the system described in Subsection (2).
(2) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the administration of a pay for performance management system.
(3) The pay for performance management system shall include:
(a) guidelines and criteria for an agency to adopt pay for performance policies and administer pay based on an employee's performance in furtherance of the agency's mission;
(b) employee performance ratings;
(c) requirements for written employee performance standards and expectations;
(d) supervisor verbal and written feedback based on the standards of performance and behavior outlined in an employee's performance plan; and
(e) quarterly written evaluation of an employee's performance.

(4) In consultation with the division, each agency shall:
(a) adopt and maintain pay for performance policies based on the performance management system; and
(b) subject to available funds and as necessary, adjust an employee's wage to reflect:
(i) subject to Subsection (5), the salary range for the employee's position; and
(ii) an increase, decrease, or no change in the employee's wage:
(A) commensurate to an employee's performance as reflected by the employee's evaluation conducted in accordance with the pay for performance management system; and
(B) in an amount that is in accordance with the guidelines and criteria established for a wage change in the pay for performance management system.
(5) The division shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, authorizing an employee to receive a wage that exceeds the salary range of the employee's position if warranted based on the employee's performance rating.
(6)
(a) An independent entity may participate in the pay for performance management system by providing written notice to the division that:
(i) states the intent of the independent entity to participate in the system; and
(ii) indicates that the independent entity agrees to comply with Subsection (6)(b).
(b) An independent entity participating in the pay for performance management system shall comply with:
(i) the provisions of this section; and
(ii) the rules and policies of the division relating to participation in the pay for performance management system.

Amended by Chapter 403, 2025 General Session

Part 2
Offices and Facilities

63A-17-201 Division field offices.

(1) The director may establish a field office in an agency.
(2) The director may assign an employee of the division to act as field office staff.
(3) The director and agency head shall sign an agreement, to be reviewed annually, that specifies:
(a) the services to be provided by the division;
(b) the use of agency facilities and equipment by the field office;
(c) protocols to resolve discrepancies between agency practice and division policy; and
(d) any other issue necessary for the proper functioning of the field office.
(4) Unless otherwise provided for in the field office agreement, the agency shall:
(a) assign responsibilities and duties to its employees;
(b) conduct performance appraisals;
(c) discipline the agency's employees in consultation with the division; and
(d) maintain individual personnel records.

Renumbered and Amended by Chapter 344, 2021 General Session

63A-17-202 Use of facilities -- Field office facilities cost allocation.

(1) An agency or a political subdivision of the state shall allow the division to use public buildings under the agency's or the political subdivision's control, and furnish heat, light, and furniture, for any examination, training, hearing, or investigation authorized by this chapter.
(2) An agency or political subdivision that allows the division to use a public building under Subsection (1) shall pay the cost of the division's use of the public building.

Amended by Chapter 169, 2022 General Session

Part 3
Classification and Career Service

63A-17-301 Career service -- Exempt positions -- Schedules for civil service positions -- Coverage of career service provisions.

(1) Except as provided in Subsection (3)(d), the following positions are exempt from the career service provisions of this chapter and are designated under the following schedules:
  (a) schedule AA includes the governor, members of the Legislature, and all other elected state officers;
  (b) schedule AB includes appointed executives and board or commission executives enumerated in Section 67-22-2;
  (c) schedule AC includes all employees and officers in:
    (i) the office and at the residence of the governor;
    (ii) the Public Lands Policy Coordinating Office;
    (iii) the Office of the State Auditor; and
    (iv) the Office of the State Treasurer;
  (d) schedule AD includes employees who:
    (i) are in a confidential relationship to an agency head or commissioner; and
    (ii) report directly to, and are supervised by, a department head, commissioner, or deputy director of an agency or its equivalent;
  (e) schedule AE includes each employee of the State Board of Education that the State Board of Education designates as exempt from the career service provisions of this chapter;
  (f) schedule AG includes employees in the Office of the Attorney General who are under their own career service pay plan under Sections 67-5-7 through 67-5-13;
  (g) schedule AH includes:
    (i) teaching staff of all state institutions; and
    (ii) employees of the Utah Schools for the Deaf and the Blind who are:
      (A) educational interpreters as classified by the division; or
      (B) educators as defined by Section 53E-8-102;
  (h) schedule AN includes employees of the Legislature;
  (i) schedule AO includes employees of the judiciary;
  (j) schedule AP includes all judges in the judiciary;
  (k) schedule AQ includes:
    (i) members of state and local boards and councils appointed by the governor and governing bodies of agencies;
    (ii) a water commissioner appointed under Section 73-5-1;
    (iii) other local officials serving in an ex officio capacity; and
    (iv) officers, faculty, and other employees of institutions of higher education;

(l) schedule AR includes employees in positions that involve responsibility:
(i) for determining policy;
(ii) for determining the way in which a policy is carried out; or
(iii) of a type not appropriate for career service, as determined by the agency head with the concurrence of the director;
(m) schedule AS includes any other employee:
(i) whose appointment is required by statute to be career service exempt;
(ii) whose agency is not subject to this chapter; or
(iii) whose agency has authority to make rules regarding the performance, compensation, and bonuses for its employees;
(n) schedule AT includes employees of the Division of Technology Services, designated as executive/professional positions by the director of the Division of Technology Services with the concurrence of the director of the division;
(o) schedule AU includes patients and inmates employed in state institutions;
(p) employees of the Department of Workforce Services, designated as schedule AW:
(i) who are temporary employees that are federally funded and are required to work under federally qualified merit principles as certified by the director; or
(ii) for whom substantially all of their work is repetitive, measurable, or transaction based, and who voluntarily apply for and are accepted by the Department of Workforce Services to work in a pay for performance program designed by the Department of Workforce Services with the concurrence of the director of the division;
(q) subject to Subsection (6), schedule AX includes employees in positions that:
(i) require the regular supervision and performance evaluation of one or more other employees; and
(ii) are not designated exempt from career service under any other schedule described in this Subsection (1); and
(r) for employees in positions that are temporary, seasonal, time limited, funding limited, or variable hour in nature, under schedule codes and parameters established by the division by administrative rule.

(2) The civil service shall consist of two schedules as follows:
(a)
(i) Schedule A is the schedule consisting of positions under Subsection (1).
(ii) Removal from any appointive position under schedule A, unless otherwise regulated by statute, is at the pleasure of the appointing officers without regard to tenure.
(b) Schedule B is the competitive career service schedule, consisting of:
(i) all positions filled through competitive selection procedures as defined by the director; or
(ii) positions filled through a division approved on-the-job examination intended to appoint a qualified person with a disability, or a veteran in accordance with Title 71A, Chapter 2, Veterans Preference.

(3)
(a) The director, after consultation with the heads of concerned executive branch departments and agencies and with the approval of the governor, shall allocate positions to the appropriate schedules under this section.
(b) Agency heads shall make requests and obtain approval from the director before changing the schedule assignment and tenure rights of any position.
(c) Unless the director's decision is reversed by the governor, when the director denies an agency's request, the director's decision is final.
(d)

(i) An agency may file a request with the division:
(A) to keep a position scheduled as a schedule B position as a schedule B position; or
(B) to reschedule a position that is scheduled as a schedule A position as a schedule B position.
(ii) The division shall review a request filed under Subsection (3)(d)(i) and approve the request only if the exception is necessary to conform to a requirement imposed as a condition precedent to receipt of federal funds or grant of a tax benefit under federal law.

(4)
(a) Compensation for employees of the Legislature shall be established by the directors of the legislative offices in accordance with Section 36-12-7.
(b) Compensation for employees of the judiciary shall be established by the state court administrator in accordance with Section 78A-2-107.
(c) Compensation for officers, faculty, and other employees of state universities and institutions of higher education shall be established as provided in Title 53H, Chapter 1, Utah System of Higher Education, and Title 53H, Chapter 3, Institutions of Higher Education Generally.
(d) Unless otherwise provided by law, compensation for all other schedule A employees shall be established by their appointing authorities, within ranges approved by, and after consultation with the director.

(5) An employee who is in a position designated schedule AC and who holds career service status on June 30, 2010, shall retain the career service status if the employee:
(a) remains in the position that the employee is in on June 30, 2010; and
(b) does not elect to convert to career service exempt status in accordance with a rule made by the division.

(6)
(a) An employee who is hired for a schedule AX position on or after July 1, 2022, is exempt from career service status.
(b) An employee who before July 1, 2022, is a career service employee employed in a schedule B position that is rescheduled to a schedule AX position on July 1, 2022, shall maintain the employee's career service status for the duration of the employee's employment in the same position unless the employee voluntarily converts to career service exempt status before July 1, 2023.
(c)
(i) Subject to Subsection (6)(c)(ii), an employee is exempt from career service status if:
(A) before July 1, 2022, the employee was a probationary employee in a schedule B position and had not completed the probationary period; and
(B) on July 1, 2022, the schedule B position in which the probationary employee is employed is rescheduled as a scheduled AX position.
(ii) An employee described in Subsection (6)(c)(i):
(A) is not a probationary employee on or after July 1, 2022; and
(B) is exempt from career service status on and after July 1, 2022, unless the employee changes employment to a schedule B position.
(d) The division shall disseminate to each employee described in Subsection (6)(b) information on financial and other incentives for voluntary conversion to career-service exempt status.
(e) An agency may adopt a policy, created in consultation with the division, for agency review of recommendations that schedule AX employees be suspended, demoted, or dismissed from employment.

Amended by Chapter 9, 2025 Special Session 1

63A-17-302 Implementation of exempt status for Schedule AD and AR employees.

(1) As used in this section, "appointee" means:
  (a) a deputy director;
  (b) a division director;
  (c) any assistant directors and administrative assistants who report directly to a department head, deputy director, or their equivalent; and
  (d) any other person whose appointment is required by law to be approved by the governor.
(2) After the effective date of this chapter, any new appointee is a merit exempt employee.
(3) Notwithstanding the requirements of this chapter, any appointee who is currently a nonexempt employee does not lose that nonexempt status because of this chapter.
(4) The division shall develop financial and other incentives to encourage appointees who are nonexempt to voluntarily convert to merit exempt status.

Renumbered and Amended by Chapter 344, 2021 General Session

63A-17-304 Promotion -- Reclassification -- Market adjustment.

(1)
  (a) If an employee is promoted or the employee's position is reclassified to a higher salary range maximum, the agency shall place the employee's salary within the new range of the position.
  (b) An agency may not set an employee's salary:
    (i) higher than the maximum in the new salary range; or
    (ii) lower than the minimum in the new salary range of the position.
(2) An agency shall adjust the salary range for an employee whose salary range is approved by the Legislature for a market comparability adjustment consistent with Subsection 63A-17-307(5)(b)(i):
  (a) at the beginning of the next fiscal year; and
  (b) consistent with appropriations made by the Legislature.
(3) Division-initiated revisions in the state classification system that result in consolidation or reduction of class titles or broadening of pay ranges:
  (a) may not be regarded as a reclassification of the position or promotion of the employee; and
  (b) are exempt from the provisions of Subsection (1).

Amended by Chapter 397, 2024 General Session

63A-17-305 Appointments to Schedule B positions -- Examinations -- Hiring lists -- Probationary service -- Dismissal.

(1) Each appointment to a position under Schedule B shall be made from hiring lists of applicants who have been selected by competitive procedures as defined by the director.
(2) The director shall publicly announce information regarding career service positions:
  (a) for periods of time to be determined by the director; and
  (b) in a manner designed to attract the highest number of qualified applicants.
(3) The director shall make rules establishing standards for the development, approval, and implementation of examining processes, including establishing a department approved on the job examination to appoint a qualified person with a disability.
(4) Applicants for employment to Schedule B positions shall be eligible for appointment based upon rules established by the director.
(5)

(a) The agency head shall make appointments to fill vacancies from hiring lists for probationary periods as defined by rule.
(b) The director shall make rules establishing probationary periods.
(6) A person serving a probationary period may not use the grievance procedures provided in this chapter and in Title 67, Chapter 19a, Grievance Procedures, and may be dismissed at any time by the appointing officer without hearing or appeal.
(7) Career service status shall be granted upon the successful completion of the probationary period.

Renumbered and Amended by Chapter 344, 2021 General Session

63A-17-306 Dismissals and demotions -- Grounds -- Disciplinary action -- Procedure -- Reductions in force.

(1) A career service employee may be dismissed or demoted:
(a) to advance the good of the public service; or
(b) for just cause, including inefficiency, incompetency, failure to maintain skills or adequate performance levels, insubordination, disloyalty to the orders of a superior, misfeasance, malfeasance, or nonfeasance in office.
(2) An employee may not be dismissed because of race, sex, age, disability, national origin, religion, political affiliation, or other nonmerit factor including the exercise of rights under this chapter.
(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director shall make rules governing the procedural and documentary requirements of disciplinary dismissals and demotions.
(4) If an agency head finds that a career service employee is charged with aggravated misconduct or that retention of a career service employee would endanger the peace and safety of others or pose a grave threat to the public interest, the employee may be suspended pending the administrative appeal to the department head as provided in Subsection (5).
(5) An agency head may not demote or dismiss a career service employee unless:
(a) the agency head or the designated representative of the agency head notifies the employee in writing of the reason for the dismissal or demotion;
(b) the employee is given five working days to submit a written reply to the agency head and to have the reply considered by the agency head;
(c) the employee is given an opportunity to be heard by the agency head or the designated representativeof the agency head; and
(d) after completing the procedural requirements described in Subsections (5)(a) through (c), the agency head finds adequate cause or reasonto demote or dismiss the employee.
(6)
(a) Reductions in force required by inadequate funds, change of workload, or lack of work are governed by retention points established by the director.
(b) Under those circumstances:
(i) The agency head shall designate the category of work to be eliminated, subject to review by the director.
(ii) Temporary and probationary employees shall be separated before any career service employee.
(iii)

(A) When more than one career service employee is affected, the employees shall be separated in the order of their retention points, the employee with the lowest points to be discharged first.

(B) Retention points for each career service employee shall be computed according to rules established by the director, allowing appropriate consideration for proficiency and seniority in state government, including any active duty military service fulfilled subsequent to original state appointment.

(c)

(i) A career service employee who is separated in a reduction in force under this section shall be given preferential consideration when applying for a career service position.

(ii) Preferential consideration under Subsection (6)(c)(i) applies only until the former career service employee accepts a career service position.

(iii) The director shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, concerning the manner of granting preferential consideration under Subsection (6)(c)(i).

(d)

(i) An employee separated due to a reduction in force may appeal to the department head for an administrative review.

(ii) The notice of appeal must be submitted within 20 working days after the employee's receipt of written notification of separation.

(iii) The employee may appeal the decision of the department head according to the grievance and appeals procedure of this chapter and Title 67, Chapter 19a, Grievance Procedures.

Amended by Chapter 397, 2024 General Session

63A-17-307 State pay plans -- Applicability of section -- Exemptions -- Duties of director.

(1)

(a) This section, and the rules made by the division under this section, apply to each career and noncareer employee not specifically exempted under Subsection (2).

(b) If not exempted under Subsection (2), an employee is considered to be in classified service.

(2) The following employees are exempt from this section:

(a) members of the Legislature and legislative employees;

(b) members of the judiciary and judicial employees;

(c) elected members of the executive branch and employees designated as schedule AC as provided under Subsection 63A-17-301(1)(c);

(d) employees of the State Board of Education;

(e) officers, faculty, and other employees of state institutions of higher education;

(f) employees in a position that is specified by statute to be exempt from this Subsection (2);

(g) employees in the Office of the Attorney General;

(h) department heads and other persons appointed by the governor under statute;

(i) schedule AS employees as provided under Subsection 63A-17-301(1)(m);

(j) department deputy directors, division directors, and other employees designated as schedule AD as provided under Subsection 63A-17-301(1)(d);

(k) employees that determine and execute policy designated as schedule AR as provided under Subsection 63A-17-301(1)(l);

(l) teaching staff, educational interpreters, and educators designated as schedule AH as provided under Subsection 63A-17-301(1)(g);

(m) temporary employees described in Subsection 63A-17-301(1)(r);

(n) patients and inmates designated as schedule AU as provided under Subsection 63A-17-301(1)(o) who are employed by state institutions; and

(o) members of state and local boards and councils and other employees designated as schedule AQ as provided under Subsection 63A-17-301(1)(k).

(3)

(a) The director shall prepare, maintain, and revise a position classification plan for each employee position not exempted under Subsection (2) to provide equal pay for equal work.

(b) Classification of positions shall be based upon similarity of duties performed and responsibilities assumed, so that the same job requirements and the same salary range, subject to Section 63A-17-112, may be applied equitably to each position in the same class.

(c) The director shall allocate or reallocate the position of each employee in classified service to one of the classes in the classification plan.

(d)

(i) The division shall conduct periodic studies and interviews to provide that the classification plan remains reasonably current and reflects the duties and responsibilities assigned to and performed by employees.

(ii) The director shall determine the need for studies and interviews after considering factors such as changes in duties and responsibilities of positions or agency reorganizations.

(e) In accordance with Subsections (3)(a) and (b), and in consultation with the Department of Health and Human Services and the Department of Corrections, the director may create a classification plan for employee positions responsible for providing comprehensive health care and clinical interventions to inmates in a correctional facility, as those terms are defined in Section 26B-4-1001, that accounts for the specific challenges of providing health care in a correctional facility.

(4)

(a) With the approval of the executive director and the governor, the director shall develop and adopt pay plans for each position in classified service.

(b) The director shall design each pay plan to achieve, to the degree that funds permit, comparability of state salary ranges to the market using data obtained from private enterprise and other public employment for similar work.

(c) The director shall adhere to the following in developing each pay plan:

(i) each pay plan shall consist of sufficient salary ranges to:

(A) permit adequate salary differential among the various classes of positions in the classification plan; and

(B) reflect the normal growth and productivity potential of employees in that class.

(ii) The director shall issue rules for the administration of pay plans.

(d) The establishing of a salary range is a nondelegable activity and is not appealable under the grievance procedures of Part 6, Grievance Provisions, Title 67, Chapter 19a, Grievance Procedures, or otherwise.

(e) The director shall make rules, accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, providing for:

(i) agency approved salary adjustments within approved salary ranges, including an administrative salary adjustment; and

(ii) structure adjustments that modify salary ranges, including a cost of living adjustment or market comparability adjustment.

(5)

(a) On or before October 31 of each year, the director shall submit an annual compensation plan to the executive director and the governor for consideration in the executive budget and to the State Employee Benefits Advisory Commission created in Section 63C-31-102.

(b) The plan described in Subsection (5)(a) may include recommendations, including:

(i) salary increases that generally affect employees, including a general increase or merit increase;

(ii) salary increases that address compensation issues unique to an agency or occupation;

(iii) structure adjustments, including a cost of living adjustment or market comparability adjustment; or

(iv) changes to employee benefits.

(c)

(i)

(A) Subject to Subsection (5)(c)(i)(B) or (C), the director shall incorporate the results of a salary survey of a reasonable cross section of comparable positions in private and public employment in the state into the annual compensation plan.

(B) The salary survey for a law enforcement officer, as defined in Section 53-13-103, a correctional officer, as defined in Section 53-13-104, or a dispatcher, as defined in Section 53-6-102, shall at minimum include the three largest political subdivisions and all state law enforcement agencies that employ, respectively, comparable positions.

(C) The salary survey for an examiner or supervisor described in Title 7, Chapter 1, Part 2, Department of Financial Institutions, shall at minimum include the Federal Deposit Insurance Corporation, Federal Reserve, and National Credit Union Administration.

(ii) The director may cooperate with or participate in any survey conducted by other public and private employers.

(iii) The director shall obtain information for the purpose of constructing the survey from the Division of Workforce Information and Payment Services and shall include employer name, number of persons employed by the employer, employer contact information and job titles, county code, and salary if available.

(iv) The division shall acquire and protect the needed records in compliance with the provisions of Section 35A-4-312.

(d) The director may incorporate any other relevant information in the plan described in Subsection (5)(a), including information on staff turnover, recruitment data, or external market trends.

(e) The director shall:

(i) establish criteria to assure the adequacy and accuracy of data used to make recommendations described in this Subsection (5); and

(ii) when preparing recommendations use accepted methodologies and techniques similar to and consistent with those used in the private sector.

(f)

(i) Upon request and subject to Subsection (5)(f)(ii), the division shall make available foundational information used by the division or director in the drafting of a plan described in Subsection (5)(a), including:

(A) demographic and labor market information;

(B) information on employee turnover;

(C) salary information;

(D) information on recruitment; and

(E) geographic data.

(ii) The division may not provide under Subsection (5)(f)(i) information or other data that is proprietary or otherwise protected under the terms of a contract or by law.

(g) The governor shall:

(i) consider salary and structure adjustments recommended under Subsection (5)(b) in preparing the executive budget and shall recommend the method of distributing the adjustments;

(ii) submit compensation recommendations to the Legislature; and

(iii) support the recommendation with schedules indicating the cost to individual departments and the source of funds.

(h) If funding is approved by the Legislature in a general appropriations act, the adjustments take effect on the July 1 following the enactment unless otherwise indicated.

(6)

(a) The director shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the granting of incentive awards, including awards for cost saving actions, awards for commendable actions by an employee, or a market-based award to attract or retain employees.

(b) An agency may not grant a market-based award unless the award is previously approved by the division.

(c) In accordance with Subsection (6)(b), an agency requesting the division's approval of a market-based award shall submit a request and documentation, subject to Subsection (6)(d), to the division.

(d) In the documentation required in Subsection (6)(c), the requesting agency shall identify for the division:

(i) any benefit the market-based award would provide for the agency, including:

(A) budgetary advantages; or

(B) recruitment advantages;

(ii) a mission critical need to attract or retain unique or hard to find skills in the market; or

(iii) any other advantage the agency would gain through the utilization of a market-based award.

(7)

(a) The director shall regularly evaluate the total compensation program of state employees in the classified service.

(b) The division shall determine if employee benefits are comparable to those offered by other private and public employers using information from:

(i) a study conducted by a third-party consultant; or

(ii) the most recent edition of a nationally recognized benefits survey.

Amended by Chapter 324, 2026 General Session

63A-17-308 Transferred employee from Department of Workforce Services to the Governor's Office of Economic Development.

(1) An employee who is employed with the Housing and Community Development Division within the Department of Workforce Services, and who transfers to the Division of Housing and Community Development within the Governor's Office of Economic Development on or after July 1, 2026:

(a)

(i) from a career service schedule B position to a career service exempt schedule A position, shall maintain the employee's career service status for the duration of the employee's

employment in the same position from which the employee transferred unless the employee voluntarily converts to a career service exempt status; or

(ii) from a career service exempt schedule A position to the same position, shall remain a career service exempt at-will employee; or

(b) is exempt from career service status if the employee is a probationary employee in a career service schedule B position and:

(i) before July 1, 2026, has not completed the probationary period; and

(ii) on July 1, 2026, is transferred to a career service exempt position.

(2) An employee who is hired by the Division of Housing and Community Development within the Governor's Office of Economic Development after July 1, 2026, is a career service exempt at-will employee.

Enacted by Chapter 393, 2026 General Session

Part 4
Payroll

63A-17-401 Examination of payrolls and certification of employee eligibility by the director.

(1) The director may examine payrolls at any time to determine conformity with this chapter and administrative rules.

(2) No new employee shall be hired in a position covered by this chapter, and no employee shall be changed in pay, title or status, nor shall any employee be paid unless certified by the director as eligible under the provisions of or rules made pursuant to this chapter.

Renumbered and Amended by Chapter 344, 2021 General Session

63A-17-402 Division provides payroll services to executive branch agencies -- Report.

(1) As used in this section:

(a)

(i) "Executive branch entity" means a department, division, agency, board, or office within the executive branch of state government that employs a person who is paid through the central payroll system developed by the Division of Finance.

(ii) "Executive branch entity" does not include:

(A) the Office of the Attorney General;

(B) the Office of the State Treasurer;

(C) the Office of the State Auditor;

(D) the Department of Transportation;

(E) the Department of Public Safety;

(F) the Department of Natural Resources; or

(G) the Utah Schools for the Deaf and the Blind.

(b)

(i) "Payroll services" means using the central payroll system as directed by the Division of Finance to:

(A) enter and validate payroll reimbursements, which include reimbursements for mileage, a service award, and other wage types;

(B) calculate, process, and validate a retirement;

(C) enter a leave adjustment; and
(D) certify payroll by ensuring an entry complies with a rule or policy adopted by the department or the Division of Finance.
(ii) "Payroll services" does not mean:
(A) a function related to payroll that is performed by an employee of the Division of Finance;
(B) a function related to payroll that is performed by an executive branch agency on behalf of a person who is not an employee of the executive branch agency;
(C) the entry of time worked by an executive branch agency employee into the central payroll system; or
(D) approval or verification by a supervisor or designee of the entry of time worked.
(2) The division shall, subject to the oversight of the department, provide payroll services to all executive branch entities.
(3) After September 19, 2012, an executive branch entity, other than the division or the Division of Finance, may not create a full-time equivalent position or part-time position, or request an appropriation to fund a full-time equivalent position or part-time position for the purpose of providing payroll services to the entity.

Amended by Chapter 336, 2026 General Session

63A-17-403 Employee cost disclosure.

The Division of Finance shall, at least annually, plainly disclose to all state employees the costs of compensation and benefits that are paid by the state in dollar figures.

Renumbered and Amended by Chapter 344, 2021 General Session

Part 5
Hours and Leave

63A-17-501 Definitions.

As used in this part:
(1) "Continuing medical and life insurance benefits" means the state provided policy of medical insurance and the state provided portion of a policy of life insurance, each offered at the same:
(a) benefit level and the same proportion of state/member participation in the total premium costs as an active member as defined in Section 49-11-102; and
(b) coverage level for a member, two person, or family policy as provided to the member at the time of retirement.
(2) "Converted sick leave" means leave that has been converted from unused sick leave in accordance with Section 63A-17-506 which may be used by an employee in the same manner as:
(a) paid time off;
(b) annual leave;
(c) sick leave; or
(d) unused accumulated sick leave after the employee's retirement for the purchase of continuing medical and life insurance benefits under Sections 63A-17-507, 63A-17-508, and 63A-17-804.
(3) "Paid time off" means the same as that term is defined in Section 63A-17-515.

Amended by Chapter 357, 2026 General Session

63A-17-502 Overtime policies for state employees.

(1) As used in this section:

(a) "Accrued overtime hours" means:

(i) for a nonexempt employee, overtime hours earned during a fiscal year that, at the end of the fiscal year, have not been paid and have not been taken as time off by the nonexempt state employee who accrued the hours; and

(ii) for an exempt employee, overtime hours earned during an overtime year.

(b) "Appointed official" means:

(i) each department executive director and deputy director, each division director, and each member of a board or commission; and

(ii) any other person employed by a department who is appointed by, or whose appointment is required by law to be approved by, the governor and who:

(A) is paid a salary by the state; and

(B) who exercises managerial, policy-making, or advisory responsibility.

(c) "Department" means, except as otherwise provided in this section, the Department of Government Operations, the Department of Corrections, the Department of Financial Institutions, the Department of Alcoholic Beverage Services, the Insurance Department, the Public Service Commission, the Labor Commission, the Department of Agriculture and Food, the Department of Health and Human Services, the Department of Natural Resources, the Department of Transportation, the Department of Commerce, the Department of Workforce Services, the State Tax Commission, the Department of Cultural and Community Engagement, the National Guard, the Department of Environmental Quality, the Department of Public Safety, the Department of Criminal Justice, all merit employees except attorneys in the Office of the Attorney General, merit employees in the Office of the State Treasurer, merit employees in the Office of the State Auditor, Department of Veterans and Military Affairs, and the Board of Pardons and Parole.

(d) "Elected official" means any person who is an employee of the state because the person was elected by the registered voters of Utah to a position in state government.

(e) "Exempt employee" means a state employee who is exempt as defined by the FLSA.

(f) "FLSA" means the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq.

(g) "FLSA agreement" means the agreement authorized by the FLSA by which a nonexempt employee elects the form of compensation the nonexempt employee will receive for overtime.

(h) "Nonexempt employee" means a state employee who is nonexempt as defined by the division applying FLSA requirements.

(i) "Overtime" means actual time worked in excess of an employee's defined work period.

(j) "Overtime year" means the year determined by a department under Subsection (5)(b) at the end of which an exempt employee's accrued overtime lapses.

(k) "State employee" means every person employed by a department who is not:

(i) an appointed official;

(ii) an elected official; or

(iii) a member of a board or commission who is paid only for per diem or travel expenses.

(l) "Uniform annual date" means the date when an exempt employee's accrued overtime lapses.

(m) "Work period" means:

(i) for a nonexempt employee, except a nonexempt law enforcement or hospital employee, a consecutive seven day, 24 hour work period of 40 hours;

(ii) for an exempt employee, a 14 day, 80 hour payroll cycle;
(iii) for a nonexempt hospital employee, the period the division establishes by rule according to the requirements of the FLSA; or
(iv) for a nonexempt law enforcement employee as defined in the FLSA, the period the division establishes by rule in accordance with Subsection (2).

(2) The division shall require each department employing a nonexempt law enforcement employee to designate one of the following work periods applicable to that employee:
(a) 80 hours in a 14 consecutive day payroll cycle; or
(b) 160 hours in a 28 consecutive day payroll cycle.

(3) Each department shall compensate each state employee who works overtime by complying with the requirements of this section.

(4)
(a) Each department shall negotiate and obtain a signed FLSA agreement from each nonexempt employee.
(b) In the FLSA agreement, the nonexempt employee shall elect either to be compensated for overtime by:
(i) taking time off work at the rate of one and one-half hour off for each overtime hour worked; or
(ii) being paid for the overtime worked at the rate of one and one-half times the employee's regular hourly wage.
(c) A nonexempt employee who elects to take time off under this Subsection (4) shall be paid for any overtime worked in excess of the cap established by the division.
(d) Before working any overtime, a nonexempt employee shall obtain authorization to work overtime from the employee's immediate supervisor.
(e) Each department shall:
(i) for an employee who elects to be compensated with time off for overtime, allow overtime earned during a fiscal year to be accumulated; and
(ii) for an employee who elects to be paid for overtime worked, pay them for overtime worked in the paycheck for the pay period in which the employee worked the overtime.
(f) If a department pays a nonexempt employee for overtime, that department shall charge that payment to that department's budget.
(g) At the end of each fiscal year, the Division of Finance shall total all the accrued overtime hours for nonexempt employees and charge that total against the appropriate fund or subfund.

(5)
(a)
(i) Except as provided in Subsection (5)(a)(ii), each department shall compensate each exempt employee who works overtime by granting the employee time off at the rate of one hour off for each hour of overtime worked.
(ii) The director of the division may grant limited exceptions to the compensation requirement described in Subsection (5)(a)(i), where work circumstances dictate, by authorizing a department to pay an exempt employee for overtime worked at the employee's regular hourly wage if that department has funds available.
(b)
(i) Each department shall:
(A) establish in the department's written human resource policies a uniform annual date for each division that is at the end of any pay period; and
(B) communicate the uniform annual date to the department's employees.

(ii) If any department fails to establish a uniform annual date as required by this Subsection (5), the director of the division, in conjunction with the director of the Division of Finance, shall establish the date for that department.

(c) The overtime authorized for an exempt employee under this Subsection (5) is not an entitlement, a benefit, or a vested right.

(d) At the end of the overtime year, upon transfer to another department at any time, and upon termination, retirement, or other situations where the employee will not return to work before the end of the overtime year:

(i) any of an exempt employee's overtime that is more than the maximum established by division rule lapses; and

(ii) unless authorized by the director of the division under Subsection (5)(a)(ii), a department may not compensate the exempt employee for that lapsed overtime by paying the employee for the overtime or by granting the employee time off for the lapsed overtime.

(e) Before working any overtime, each exempt employee shall obtain authorization to work overtime from the exempt employee's immediate supervisor.

(f) If a department pays an exempt employee for overtime under authorization from the director of the division, that department shall charge that payment to that department's budget in the pay period earned.

(6) The division shall:

(a) ensure that the provisions of the FLSA and this section are implemented throughout state government;

(b) determine, for each state employee, whether the employee is exempt, nonexempt, law enforcement, or has some other status under the FLSA;

(c) in coordination with modifications to the systems operated by the Division of Finance, make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) establishing procedures for recording overtime worked that comply with FLSA requirements;

(ii) establishing requirements governing overtime worked while traveling and procedures for recording that overtime that comply with FLSA requirements;

(iii) establishing requirements governing overtime worked if the employee is "on call" and procedures for recording that overtime that comply with FLSA requirements;

(iv) establishing requirements governing overtime worked while an employee is being trained and procedures for recording that overtime that comply with FLSA requirements;

(v) subject to the FLSA and Subsection (2), establishing the maximum number of hours that a nonexempt employee may accrue before a department is required to pay the employee for the overtime worked;

(vi) subject to the FLSA, establishing the maximum number of overtime hours for an exempt employee that do not lapse; and

(vii) establishing procedures for adjudicating appeals of an FLSA determination made by the division as required by this section;

(d) monitor departments for compliance with the FLSA; and

(e) recommend to the Legislature and the governor any statutory changes necessary because of federal government action.

(7)

(a) In coordination with the procedures for recording overtime worked established in rule by the division, the Division of Finance shall modify its payroll and human resource systems to accommodate those procedures.

(b) Notwithstanding the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, Section 63A-17-602, and Section 67-19a-301, an employee who is aggrieved

by the FLSA designation made by the division as required by this section may appeal that determination to the director of the division by following the procedures and requirements established in division rule.

(c) Upon receipt of an appeal under this section, the director shall notify the executive director of the employee's department that the appeal has been filed.

(d) If the employee is aggrieved by the decision of the director, the employee shall appeal that determination to the United States Department of Labor, Wage and Hour Division, according to the procedures and requirements of federal law.

Amended by Chapter 291, 2026 General Session

63A-17-503 Accumulated annual leave or paid time off -- Conversion to deferred compensation plan.

(1) The division shall implement a program whereby an employee may, upon termination of employment or retirement, elect to convert any unused annual leave or paid time off into any of the employee's designated deferred compensation accounts that:

(a) are sponsored by the Utah State Retirement Board; and

(b) are qualified under Section 401(k) or Section 457 of the Internal Revenue Code.

(2) Any annual leave or paid time off converted under Subsection (1) shall be converted into the employee's deferred compensation account at the employee's pay rate at the time of termination or retirement.

(3) No employee may convert hours of accrued annual leave or paid time off to the extent that any hours so converted would exceed the maximum amount authorized by the Internal Revenue Code for each calendar year.

Amended by Chapter 357, 2026 General Session

63A-17-504 Accumulated annual leave or paid time off -- Annual conversion to deferred compensation plan.

(1) If the Legislature in an annual appropriations act with accompanying intent language specifically authorizes and fully funds the estimated costs of this use, the division shall implement a program that allows an employee, in the approved calendar year, to elect to convert up to 20 hours of annual leave or paid time off, in whole hour increments not to exceed $250 in value, into any of the employee's designated deferred compensation accounts that:

(a) are sponsored by the Utah State Retirement Board; and

(b) are qualified under Section 401(k) or Section 457 of the Internal Revenue Code.

(2) Any annual leave or paid time off converted under Subsection (1) shall be:

(a) converted into the employee's deferred compensation account at the employee's pay rate at the time of conversion; and

(b) calculated in the last pay period of the leave year as determined by the Division of Finance.

(3) An employee may not convert hours of accrued annual leave or paid time off to the extent that any hours converted would:

(a) exceed the maximum amount authorized by the Internal Revenue Code for the calendar year; or

(b) cause the employee's balance of accumulated annual leave or paid time off to drop below the maximum accrual limit provided by rule.

Amended by Chapter 357, 2026 General Session

63A-17-505 Sick leave -- Definitions -- Unused sick days retirement programs -- Rulemaking.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director shall make rules:
  (a) for the procedures to implement the provisions of this section through Section 63A-17-508; and
  (b) to establish the maximum number of hours of converted sick leave an employee may accrue.
(2) The Division of Finance shall develop and maintain a system of accounting for employee sick leave and converted sick leave as necessary to implement the provisions of this section through Section 63A-17-508.

Renumbered and Amended by Chapter 344, 2021 General Session

63A-17-506 Converted sick leave.

Converted sick leave hours that are not used prior to an employee's retirement date shall be used under the:
(1) Unused Sick Leave Retirement Option Program I under Section 63A-17-507 if earned prior to January 1, 2006, unless the transfer is made under Subsection 63A-17-508(1)(c); or
(2) Unused Sick Leave Retirement Option Program II under Section 63A-17-508 if earned on or after January 1, 2006.

Renumbered and Amended by Chapter 344, 2021 General Session

63A-17-507 Unused Sick Leave Retirement Option Program I -- Creation -- Payout upon eligibility for allowance -- Continuing medical and life insurance benefits after retirement.

(1)
  (a) There is created the "Unused Sick Leave Retirement Option Program I."
  (b) An agency may offer the Unused Sick Leave Retirement Option Program I to an employee who is eligible to receive a retirement allowance in accordance with Title 49, Utah State Retirement and Insurance Benefit Act.
(2) The Unused Sick Leave Retirement Option Program I provides that upon becoming eligible to receive a retirement allowance an employee who was employed by the state prior to January 1, 2006:
  (a) receives a contribution under Subsection (3) for 25% of the employee's unused accumulated sick leave accrued prior to January 1, 2006, at the employee's rate of pay at the time of retirement; and
  (b) may purchase additional continuing medical and life insurance benefits in accordance with Subsection (4).
(3)
  (a) Subject to federal requirements and limitations, the contribution under Subsection (2)(a) shall be transferred directly to the employee's defined contribution plan qualified under Section 401(k) of the Internal Revenue Code which is sponsored by the Utah State Retirement Board.
  (b) If the amount calculated under Subsection (2)(a) exceeds the federal contribution limitations, the employee's unused accumulated sick leave hours representing the excess shall be used for the purchase of continuing medical and life insurance benefits under Subsection (4).
(4)

(a) An employee may purchase continuing medical and life insurance benefits, at the rate of one month's coverage per policy for eight hours of unused sick leave remaining after the contribution of unused sick leave under Subsection (2)(a).
(b) The medical coverage level for member, two person, or family coverage that is provided to the member at the time of retirement is the maximum coverage level available to the member under this program.
(c) The purchase of continuing medical and life insurance benefits at the rate provided under Subsection (4)(a) may be used by the employee to extend coverage:
(i) until the employee reaches the age of eligibility for Medicare; or
(ii) if the employee has reached the age of eligibility for Medicare, continuing medical benefits for the employee's spouse may be purchased until the employee's spouse reaches the age of eligibility for Medicare.
(d) An employee and the employee's spouse who are or who later become eligible for Medicare may purchase Medicare supplemental insurance at the rate of one month's coverage for eight hours of the employee's unused sick leave per person.
(5)
(a) The continuing medical and life insurance benefits purchased by an employee under Subsection (4):
(i) may not be suspended or deferred for future use; and
(ii) continues in effect until exhausted.
(b) An employer participating in the Program I benefits under this section may not provide medical or life insurance benefits to a person who is:
(i) reemployeed after retirement; and
(ii) receiving benefits under this section.

Renumbered and Amended by Chapter 344, 2021 General Session

63A-17-508 Unused Sick Leave Retirement Program II -- Creation -- Remuneration upon eligibility for allowance -- Medical expense account after retirement.
(1)
(a) There is created the "Unused Sick Leave Retirement Program II."
(b) An agency shall offer the Unused Sick Leave Retirement Option Program II to an employee who is eligible to receive a retirement allowance in accordance with Title 49, Utah State Retirement and Insurance Benefit Act.
(c) An employee who is participating in the Unused Sick Leave Retirement Program I under Section 63A-17-507 may make a one-time and irrevocable election to transfer all unused sick leave hours which shall include all converted sick leave hours under Section 63A-17-506 for use under the Unused Sick Leave Retirement Program II under this section.
(2)
(a) The Unused Sick Leave Retirement Program II provides that upon becoming eligible to receive a retirement allowance an employee employed by the state between January 1, 2006, and January 3, 2014, shall receive remuneration for the employee's unused accumulated sick leave and converted sick leave accrued between January 1, 2006, and January 3, 2014, in accordance with this section as follows:
(i) subject to federal requirements and limitations, a contribution at the employee's rate of pay at the time of retirement for 25% of the employee's unused accumulated sick leave and converted sick leave shall be transferred directly to the employee's defined contribution plan

qualified under Section 401(k) of the Internal Revenue Code which is sponsored by the Utah State Retirement Board; and

(ii) participation in a benefit plan that provides for reimbursement for medical expenses using money deposited at the employee's rate of pay at the time of retirement from remaining unused accumulated sick leave and converted sick leave balances.

(b) If the amount calculated under Subsection (2)(a)(i) exceeds the federal contribution limitations, the amount representing the excess shall be deposited under Subsection (2)(a)(ii).

(c) An employee's rate of pay at the time of retirement for purposes of Subsection (2)(a)(ii) may not be less than the average rate of pay of state employees who retired in the same retirement system under Title 49, Utah State Retirement and Insurance Benefit Act, during the previous calendar year.

(3) The Utah State Retirement Office shall develop and maintain a program to provide a benefit plan that provides for reimbursement for medical expenses under Subsection (2)(a)(ii) with money deposited under Subsection (2)(a)(ii).

Renumbered and Amended by Chapter 344, 2021 General Session

63A-17-509 Organ donor leave.

(1) An employee who serves as a bone marrow donor shall be granted a paid leave of absence of up to seven days that are necessary for the donation and recovery from the donation.

(2) An employee who serves as a donor of a human organ shall be granted a paid leave of absence of up to 30 days that are necessary for the donation and recovery from the donation.

(3) In recognition of National Donate Life Month, 2015, created by Proclamation No. 9248, 80 F.R. 18511 (April 1, 2015), the department shall distribute an electronic message to each employee during the month of April publicizing the leave offered under this section.

Renumbered and Amended by Chapter 344, 2021 General Session

63A-17-510 Annual leave -- Definitions -- Previously accrued hours -- Recognition of liability.

(1) As used in this section:

(a)

(i) "Annual leave II" means leave hours an employing agency provides to an employee, beginning on the change date established in Subsection (2), as time off from work for personal use without affecting the employee's pay.

(ii) "Annual leave II" does not include:

(A) legal holidays under Section 63G-1-301;

(B) time off as compensation for actual time worked in excess of an employee's defined work period;

(C) sick leave;

(D) paid or unpaid administrative leave; or

(E) other paid or unpaid leave from work provided by state statute, administrative rule, or by federal law or regulation.

(b) "Change date" means the date established by the Division of Finance under Subsection (2) when annual leave II begins for a state agency.

(2) In accordance with the Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Division of Finance shall establish a date that is no later than January 2, 2016, when a state agency shall offer annual leave II in lieu of annual leave to an employee who is eligible to receive paid leave.

(3) An employing agency shall allow an employee who has an unused balance of accrued annual leave before the change date, to use the annual leave under the same rules that applied to the leave on the change date.
(4)
(a) At the time of employee accrual of annual leave II, an employing agency shall set aside the cost of each hour of annual leave II for each eligible employee in an amount determined in accordance with rules made by the Division of Finance.
(b) The rules made under Subsection (4)(a) shall consider:
(i) the employee hourly rate of pay;
(ii) applicable employer paid taxes that would be required if the employee was paid for the annual leave II instead of using it for time off;
(iii) other applicable employer paid benefits; and
(iv) adjustments due to employee hourly rate changes, including the effect on accrued annual leave II balances.
(c) The Division of Finance shall provide that the amount of costs set aside under Subsection (4)(a) and deposited into the fund increase by at least the projected increase in annual leave liability for that year, until the year-end trust fund balances are reached as required under Subsection 67-19f-201(3)(b).
(5) The cost set aside under Subsection (4) shall be deposited by the Division of Finance into the State Employees' Annual Leave Trust Fund created in Section 67-19f-201.
(6) For annual leave hours accrued before the change date, an employing agency shall continue to comply with the Division of Finance requirements for contributions to the termination pool.
(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
(a) the division shall make rules for the accrual and use of annual leave II provided under this section; and
(b) the Division of Finance shall make rules for the set aside provisions under Subsections (4) and (5).
(8) The provisions of this section are subject to the provisions of Section 63A-17-515.

Amended by Chapter 357, 2026 General Session

63A-17-511 Parental leave -- Postpartum recovery leave -- Adoption leave -- Foster leave.
(1) As used in this section:
(a) "Adoption leave" means leave hours a state employer provides to an adoption leave eligible employee.
(b) "Adoption leave eligible employee" means an employee of a state employer who:
(i) is in a position that receives retirement benefits under Title 49, Utah State Retirement and Insurance Benefit Act;
(ii) accrues paid leave benefits that can be used in the current and future calendar years;
(iii) is not reemployed as defined in Section 49-11-1202; and
(iv) is legally adopting a young child, unless the employee is the spouse of the pre-existing parent.
(c) "Child" means an individual who is younger than 18 years old.
(d) "Foster leave" means leave hours a state employer provides to a foster leave eligible employee.
(e) "Foster leave eligible employee" means an employee of a state employer who:
(i) is in a position that receives retirement benefits under Title 49, Utah State Retirement and Insurance Benefit Act;

(ii) accrues paid leave benefits that can be used in the current and future calendar years;
(iii) is not reemployed as defined in Section 49-11-1202; and
(iv) is the foster parent of a child.
(f) "Parental leave" means leave hours a state employer provides to a parental leave eligible employee to bond with a child or incapacitated adult, including a child or incapacitated adult for whom the parental leave eligible employee is appointed the legal guardian.
(g) "Parental leave eligible employee" means an employee of a state employer who, on the date an event described in Subsections (2)(a)(i)(A) through (C) occurs:
(i) is in a position that receives retirement benefits under Title 49, Utah State Retirement and Insurance Benefit Act;
(ii) accrues paid leave benefits that can be used in the current and future calendar years;
(iii) is not reemployed as defined in Section 49-11-1202;
(iv) is assuming a parental role with respect to a child or an incapacitated adult for which parental leave is requested; and
(v)
(A) is the child's biological parent;
(B) is the spouse of the person who gave birth to the child;
(C) is legally adopting the child, unless the employee is the spouse of the pre-existing parent;
(D) is the intended parent of the child and the child is born under a validated gestational agreement in accordance with Title 81, Chapter 5, Part 8, Gestational Agreement; or
(E) is appointed the legal guardian of the child or the incapacitated adult;
(h) "Postpartum recovery leave" means leave hours a state employer provides to a postpartum recovery leave eligible employee to recover from childbirth that occurs at 20 weeks or greater gestation.
(i) "Postpartum recovery leave eligible employee" means an employee of a state employer who:
(i) is in a position that receives retirement benefits under Title 49, Utah State Retirement and Insurance Benefit Act;
(ii) accrues paid leave benefits that can be used in the current and future calendar years;
(iii) is not reemployed as defined in Section 49-11-1202; and
(iv) gives birth to a child.
(j) "Qualified employee" means:
(i) a parental leave eligible employee;
(ii) a postpartum recovery leave eligible employee;
(iii) an adoption leave eligible employee; or
(iv) a foster leave eligible employee.
(k) "Qualified leave" means:
(i) parental leave;
(ii) postpartum recovery leave;
(iii) adoption leave; or
(iv) foster leave.
(l) "Retaliatory action" means to do any of the following to an employee:
(i) dismiss the employee;
(ii) reduce the employee's compensation;
(iii) fail to increase the employee's compensation by an amount that the employee is otherwise entitled to or was promised;
(iv) fail to promote the employee if the employee would have otherwise been promoted; or
(v) threaten to take an action described in Subsections (1)(l)(i) through (iv).
(m)

(i) "State employer" means:
(A) a state executive branch agency, including the State Tax Commission, the National Guard, and the Board of Pardons and Parole;
(B) the legislative branch of the state; or
(C) the judicial branch of the state.
(ii) "State employer" does not include:
(A) an institute of higher education;
(B) the Utah Board of Higher Education;
(C) an independent entity as defined in Section 63E-1-102;
(D) the Office of the Attorney General;
(E) the Office of the State Auditor; or
(F) the Office of the State Treasurer.
(n) "Young child" means an individual who is younger than six years old.
(2)
(a) Except as provided in Subsections (3), (4), (5), and (6), a state employer shall:
(i) allow a parental leave eligible employee to use up to three work weeks of paid parental leave for:
(A) the birth of the parental leave eligible employee's child;
(B) the adoption of a child; or
(C) the appointment of legal guardianship of a child or incapacitated adult;
(ii) allow a postpartum recovery leave eligible employee to use up to six work weeks of paid postpartum recovery leave for recovery from childbirth;
(iii) allow an adoption leave eligible employee to use up to six work weeks of paid adoption leave for the adoption of a young child; and
(iv) allow a foster leave eligible employee to use up to four work weeks of paid foster leave for the foster placement of a child in the foster leave eligible employee's care.
(b) A state employer shall allow a qualified employee who is part-time or who works in excess of a 40-hour work week or its equivalent to use the amount of qualified leave that is available to the qualified employee under this section on a pro rata basis as adopted by rule by the division under Subsection (15).
(3)
(a) Parental leave described in Subsection (2)(a)(i):
(i) may not be used before the day on which:
(A) the parental leave eligible employee's child is born;
(B) the parental leave eligible employee adopts a child; or
(C) the parental leave eligible employee is appointed legal guardian of a child or incapacitated adult;
(ii) may not be used more than six months after the date described in Subsection (3)(a)(i);
(iii) may not be used intermittently, unless:
(A) by mutual written agreement between the state employer and the parental leave eligible employee; or
(B) a health care provider certifies that intermittent leave is medically necessary due to a serious health condition of the child;
(iv) runs concurrent with any leave authorized under the Family and Medical Leave Act of 1993, 29 U.S.C. Sec. 2601 et seq.; and
(v) runs consecutive to postpartum recovery leave.
(b) The amount of parental leave authorized under Subsection (2)(a)(i) does not increase if a parental leave eligible employee:

(i) has more than one child born from the same pregnancy;
(ii) adopts more than one child; or
(iii) is appointed legal guardian of more than one child or incapacitated adult.

(c) A parental leave eligible employee may not use more than three work weeks of paid parental leave within a single 12-month period, regardless of whether during that 12-month period the parental leave eligible employee:
(i) becomes the parent of more than one child;
(ii) adopts more than one child; or
(iii) is appointed legal guardian of more than one child or incapacitated adult.

(4)

(a) Postpartum recovery leave described in Subsection (2)(a)(ii):
(i) shall be used starting on the day on which the postpartum recovery leave eligible employee gives birth, unless a health care provider certifies that an earlier start date is medically necessary;
(ii) shall be used in a single continuous period, unless otherwise authorized in writing by the director of the division; and
(iii) runs concurrent with any leave authorized under the Family and Medical Leave Act of 1993, 29 U.S.C. Sec. 2601 et seq.

(b) The amount of postpartum recovery leave authorized under Subsection (2)(a)(ii) does not increase if a postpartum recovery leave eligible employee has more than one child born from the same pregnancy.

(5)

(a) Adoption leave described in Subsection (2)(a)(iii):
(i) may not be used before the day on which the adoption leave eligible employee adopts a young child;
(ii) may not be used more than six months after the date described in Subsection (5)(a)(i);
(iii) may not be used intermittently, unless:
(A) by mutual written agreement between the state employer and the adoption leave eligible employee; or
(B) a health care provider certifies that intermittent leave is medically necessary due to a serious health condition of the young child;
(iv) runs concurrent with any leave authorized under the Family and Medical Leave Act of 1993, 29 U.S.C. Sec. 2601 et seq.; and
(v) runs consecutive to parental leave taken for the adoption of a child.

(b) The amount of adoption leave authorized under Subsection (2)(a)(iii) does not increase if an adoption leave eligible employee adopts more than one young child.

(c) An adoption leave eligible employee may not use more than six work weeks of paid adoption leave within a single 12-month period, regardless of whether during that 12-month period the adoption leave eligible employee adopts more than one young child.

(d)

(i) If a young child is legally adopted by two adoption leave eligible employees, the adoption leave eligible employees are entitled to use a single six-work-week period of paid adoption leave under this section, which the employees may allocate between themselves.
(ii) The adoption leave eligible employees described in Subsection (5)(d)(i) shall notify the state employer that the employees intend to allocate adoption leave under Subsection (5)(d)(i) no later than the deadline described in Subsection (8)(a)(i).

(6)

(a) Foster leave described in Subsection (2)(a)(iv):

(i) may not be used before the day on which a child is placed in foster care with a foster leave eligible employee;
(ii) may not be used more than six months after the date described in Subsection (6)(a)(i);
(iii) may not be used after the child is no longer placed in foster care with the foster leave eligible employee;
(iv) may be used intermittently; and
(v) runs concurrent with any leave authorized under the Family and Medical Leave Act of 1993, 29 U.S.C. Sec. 2601 et seq.

(b) The amount of foster leave authorized under Subsection (2)(a)(iv) does not increase if a foster leave eligible employee has more than one child placed in foster care with the foster leave eligible employee.

(c) A foster leave eligible employee may not use more than four work weeks of paid foster leave within a single 12-month period, regardless of whether during that 12-month period more than one child is placed in foster care with the foster leave eligible employee.

(d)
(i) If a child is placed in foster care with two foster leave eligible employees, the foster eligible employees are entitled to use a single four-work-week period of paid foster leave under this section, which the employees may allocate between themselves.
(ii) The foster leave eligible employees described in Subsection (6)(d)(i) shall notify the state employer that the employees intend to allocate foster leave under Subsection (6)(d)(i) no later than the deadline described in Subsection (8)(a)(i).

(7) A qualified employee may not use:
(a) both foster leave and parental leave with respect to the same child; or
(b) both foster leave and adoption leave with respect to the same young child.

(8)
(a) Except as provided in Subsection (8)(b), a qualified employee shall give the state employer notice at least 30 days before the day on which the qualified employee plans to:
(i) begin using qualified leave under this section; and
(ii) stop using qualified leave under this section.
(b) If circumstances beyond the qualified employee's control, including an emergency foster placement, prevent the qualified employee from giving notice in accordance with Subsection (8)(a), the qualified employee shall give each notice described in Subsection (8)(a) as soon as reasonably practicable.

(9) Except as provided in Subsections (3)(a)(iv), (4)(a)(iii), (5)(a)(iv), and (6)(a)(v), a state employer may not charge qualified leave under this section against sick, annual, compensatory, excess, or other leave a qualified employee is entitled to.

(10) A state employer may not compensate a qualified employee for any unused qualified leave upon termination of employment.

(11)
(a) Following the expiration of a qualified employee's qualified leave under this section, the state employer shall ensure that the qualified employee may return to:
(i) the position that the qualified employee held before using qualified leave; or
(ii) a position within the state employer that is equivalent in seniority, status, benefits, and pay to the position that the qualified employee held before using qualified leave.
(b) If during the time a qualified employee uses qualified leave under this section the state employer experiences a reduction in force and, as part of the reduction in force, the qualified employee would have been separated had the qualified employee not been using the qualified leave, the state employer may separate the qualified employee in accordance with

any applicable process or procedure as if the qualified employee were not using the qualified leave.

(12) During the time a qualified employee uses qualified leave under this section, the qualified employee shall continue to receive all employment related benefits and payments at the same level that the qualified employee received immediately before beginning the qualified leave, provided that the qualified employee pays any required employee contributions.

(13) A state employer may not:

(a) interfere with or otherwise restrain a qualified employee from using qualified leave in accordance with this section; or

(b) take retaliatory action against a qualified employee for using qualified leave in accordance with this section.

(14) A state employer shall provide each employee written information regarding a qualified employee's right to use qualified leave under this section.

(15) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall:

(a) make rules for the use and administration of parental leave and postpartum recovery leave under this section, including a schedule that provides paid parental leave or postpartum recovery leave for a qualified employee who is part-time or who works in excess of a 40-hour work week on a pro rata basis; and

(b) on or before July 1, 2026, make rules for the use and administration of adoption leave and foster leave under this section, including a schedule that provides paid adoption leave or foster leave for a qualified employee who is part-time or who works in excess of a 40-hour work week on a pro rata basis.

Amended by Chapter 367, 2026 General Session

63A-17-511.5 Safe leave.

(1) As used in this section:

(a) "Child" means an individual younger than 18 years old.

(b) "Immediate family" means a qualified employee's:

(i) parent, spouse, child, or sibling; or

(ii) an individual that the qualified employee claims as a dependent for state or federal income tax purposes.

(c) "Qualified employee" means an employee of a state employer who:

(i) is in a position that receives retirement benefits under Title 49, Utah State Retirement and Insurance Benefit Act;

(ii) accrues paid leave benefits that can be used in the current and future calendar years;

(iii) is not reemployed as defined in Section 49-11-1202; and

(iv)

(A) is the victim of domestic violence, sexual assault, stalking, or human trafficking; or

(B) has an immediate family member who is the victim of an incident described in Subsection (1)(c)(iv)(A).

(d) "Retaliatory action" means the same as that term is defined in Section 63A-17-511.

(e) "Safe leave" means paid leave hours that a state employer provides to a qualified employee for a reason described in Subsection (2)(a).

(f)

(i) "State employer" means:

(A) a state executive branch agency, including the State Tax Commission, the National Guard, and the Board of Pardons and Parole;
(B) the legislative branch of the state; or
(C) the judicial branch of the state.
(ii) "State employer" does not include:
(A) an institution of higher education;
(B) the Utah Board of Higher Education;
(C) the State Board of Education;
(D) an independent entity as defined in Section 63E-1-102;
(E) the attorney general's office;
(F) the state auditor's office; or
(G) the state treasurer's office.

(2)
(a) Subject to Subsection (3), a state employer shall allow a qualified employee to use up to one week of safe leave per calendar year for a reason related to, or arising out of, an incident described in Subsection (1)(c)(iv)(A) or (B), including:
(i) to obtain services from a domestic violence shelter, rape crisis center, or similar shelter or service program;
(ii) to temporarily or permanently relocate;
(iii) to file a complaint or report with law enforcement;
(iv) to enroll a child in a new school;
(v) to meet with a district or county attorney's office;
(vi) to attend or participate in a court hearing;
(vii) to obtain psychological or emotional counseling;
(viii) to receive medical treatment; or
(ix) to take another action that is necessary to maintain, improve, or restore the physical, psychological, emotional, or economic health or safety of the qualified employee or the qualified employee's immediate family member.
(b) A state employer shall allow a qualified employee to use the amount of safe leave available to the qualified employee on a pro rata basis, as adopted by rule by the division under Subsection (12), if the qualified employee:
(i) is a part-time employee; or
(ii) works in excess of a 40-hour work week or the equivalent of a 40-hour work week.

(3) A state employer may not grant a qualified employee safe leave under Subsection (2) unless the qualified employee has first exhausted all of the qualified employee's available accrued annual, compensatory, and excess leave balances.

(4) The amount of safe leave authorized under Subsection (2):
(a) may be used intermittently;
(b) may not be used more than two years after the date of an incident described in Subsection (1)(c)(iv)(A) or (B), unless the qualified employee's use of safe leave is for a reason related to, or arising out of, the criminal prosecution of an individual alleged to be the perpetrator of an incident described in Subsection (1)(c)(iv)(A) or (B);
(c) runs concurrently with leave authorized under the Family and Medical Leave Act of 1993, 29 U.S.C. Sec. 2601 et seq.;
(d) does not increase if the qualified employee or the qualified employee's immediate family member is the victim of more than one of the incidents described in Subsection (1)(c)(iv)(A) or (B); and
(e) does not accrue annually.

(5)
(a) Except as provided in Subsection (5)(b), a qualified employee shall give a state employer notice at least seven days before the day on which the qualified eligible employee plans to:
(i) begin using safe leave; and
(ii) stop using safe leave.
(b) If circumstances beyond a qualified employee's control prevent the qualified employee from giving the state employer notice in accordance with Subsection (5)(a), the qualified employee shall give the state employer each notice described in Subsection (5)(a) as soon as reasonably practicable.
(6) Except as provided in Subsection (4)(c), a state employer may not charge safe leave against sick, annual, compensatory, excess, or another leave to which a qualified employee is entitled.
(7) A state employer may not compensate a qualified employee for any unused safe leave upon the qualified employee's termination of employment.
(8)
(a) After the expiration of a qualified employee's safe leave, the state employer shall ensure that the qualified employee may return to:
(i) the position that the qualified employee held before using safe leave; or
(ii) a position within the state employer that is equivalent in seniority, status, benefits, and pay to the position that the qualified employee held before using safe leave.
(b) If, during the time that a qualified employee uses safe leave, the state employer experiences a reduction in force and, as part of the reduction in force, the qualified employee would have been separated from employment if the qualified employee was not using safe leave, the state employer may separate the qualified employee in accordance with any applicable process or procedure as if the qualified employee was not using safe leave.
(9) During the time a qualified employee uses safe leave, the qualified employee shall continue to receive all employment related benefits and payments at the same level that the qualified employee received immediately before using safe leave, if the qualified employee pays any required employee contribution.
(10) A state employer may not:
(a) interfere with or otherwise restrain a qualified employee from using safe leave; or
(b) take retaliatory action against a qualified employee for using safe leave.
(11) A state employer shall provide each qualified employee written information regarding the qualified employee's right to use safe leave in accordance with this section.
(12) On or before January 1, 2025, the division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing requirements for:
(a) the use and administration of safe leave under this section; and
(b) a schedule that provides safe leave for a qualified employee who is part-time or who works in excess of a 40-hour work week on a pro rata basis.

Enacted by Chapter 433, 2024 General Session

63A-17-512 Leave of absence with pay for employees with a disability who are covered under other civil service systems.

(1) As used in this section:
(a) "Eligible officer" means a person who qualifies for a benefit under this section.
(b)
(i) "Law enforcement officer" means a sworn and certified peace officer who is an employee of a law enforcement agency that is part of or administered by the state, and whose primary

and principal duties consist of the prevention and detection of crime and the enforcement of criminal statutes of this state.

(ii) "Law enforcement officer" specifically includes the following:

(A) the commissioner of public safety and any member of the Department of Public Safety certified as a peace officer;

(B) investigators for the Motor Vehicle Enforcement Division;

(C) special agents or investigators employed by the attorney general;

(D) employees of the Department of Natural Resources designated as peace officers by law;

(E) the executive director of the Department of Corrections and any correctional enforcement or investigative officer designated by the executive director and approved by the commissioner of public safety and certified by the division; and

(F) correctional enforcement, investigative, or Division of Adult Probation and Parole officers employed by the Department of Corrections serving on or before July 1, 1993.

(c) "State correctional officer" means a correctional officer as defined in Section 53-13-104 who is employed by the Department of Corrections.

(2)

(a) A law enforcement officer or state correctional officer who is injured in the course of employment shall be given a leave of absence with 100% of the officer's regular monthly salary and benefits during the period the employee has a temporary disability.

(b) The benefit provided under Subsection (2)(a):

(i) shall be offset as provided under Subsection (4); and

(ii) may not exceed 100% of the officer's regular monthly salary and benefits, including all offsets required under Subsection (4).

(3)

(a) A law enforcement officer or state correctional officer who has a total disability as defined in Section 49-21-102, shall be given a leave of absence with 100% of the officer's regular monthly salary and benefits until the officer is eligible for an unreduced retirement under Title 49, Utah State Retirement and Insurance Benefit Act, or reaches the retirement age of 62 years, whichever occurs first, if:

(i) the disability is a result of an injury sustained while in the lawful discharge of the officer's duties; and

(ii) the injury is the result of:

(A) a criminal act upon the officer; or

(B) an aircraft, vehicle, or vessel accident and the officer was not negligent in causing the accident.

(b) The benefit provided under Subsection (3)(a):

(i) shall be offset as provided under Subsection (4); and

(ii) may not exceed 100% of the officer's regular monthly salary and benefits, including all offsets required under Subsection (4).

(4)

(a) The agency shall reduce or require the reimbursement of the monthly benefit provided under this section by any amount received by, or payable to, the eligible officer for the same period of time during which the eligible officer is entitled to receive a monthly disability benefit under this section.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing policies and procedures for the reductions required under Subsection (4)(a).

Amended by Chapter 214, 2025 General Session

63A-17-513 State employer required to provide leave to a legislator on an authorized legislative day.

(1) As used in this section:

(a) "Authorized legislative day" means:

(i) the day on which the Legislature convenes in annual general session, and each day after that day, until midnight of the 45th day of the annual general session;

(ii) a special session day;

(iii) a veto override session day;

(iv) an interim day designated by the Legislative Management Committee;

(v) an authorized legislative training day; or

(vi) any other day on which a meeting of a committee, subcommittee, commission, task force, or other entity is held, if:

(A) the committee, subcommittee, commission, task force, or other entity is created by statute or joint resolution;

(B) the legislator's attendance at the meeting is approved by the Legislative Management Committee; and

(C) service and payment for service by the legislator is not in violation of the Utah Constitution, including Article V and Article VI, Sections 6 and 7.

(b) "Authorized legislative training day" means a day that a Legislative Expenses Oversight Committee designates as an authorized legislative day for training or informational purposes, including:

(i) chair training;

(ii) an issue briefing;

(iii) legislative leadership instruction;

(iv) legislative process training;

(v) legislative rules training;

(vi) new legislator orientation; or

(vii) another meeting to brief, instruct, orient, or train a legislator in relation to the legislator's official duties.

(c) "Legislator" means:

(i) a member of the Utah Senate;

(ii) a member of the Utah House of Representatives; or

(iii) an individual who has been elected as a member described in Subsection (1)(c)(i) or (ii), but has not yet been sworn in or begun the individual's term of office.

(d) "Retaliatory action" means to:

(i) dismiss the employee;

(ii) reduce the employee's compensation;

(iii) fail to increase the employee's compensation by an amount that the employee is otherwise entitled to or was promised;

(iv) fail to promote the employee if the employee would have otherwise been promoted; or

(v) threaten to take an action described in Subsections (1)(d)(i) through (iv).

(e) "State employer" means any employer in the state executive branch.

(2) A state employer who employs an individual who is a legislator:

(a) shall grant leave to the individual on an authorized legislative day for the number of hours requested by the individual;

(b) may not interfere with, or otherwise restrain the individual from, using the leave described in Subsection (2)(a); and
(c) may not take retaliatory action against the individual for using the leave described in Subsection (2)(a).
(3) The leave described in Subsection (2) is leave without pay unless the state employer and the individual described in Subsection (2) agree to terms that are more favorable to the individual.

Enacted by Chapter 402, 2024 General Session

63A-17-514 One time leave program election.
(1) As used in this section:
(a) "Active member" means the same as that term is defined in Section 49-11-102.
(b) "Change date" means the same as that term is defined in Section 63A-17-515.
(c) "Current employee" means an agency employee who is employed by an agency as of the change date.
(d) "Legacy program" means:
(i) accruing annual leave II as defined in Section 63A-17-510 and sick leave under the same or substantially the same rules in place on the day immediately preceding the change date; and
(ii) for a qualifying employee, being eligible for the employer matching retirement contribution available to a legacy qualifying employee under Section 63A-17-805.
(e) "Paid time off program" means:
(i) accruing paid time off in lieu of annual leave II and sick leave, as provided in Section 63A-17-515; and
(ii)
(A) for a qualifying employee who is an active member in Tier I as defined in Section 49-11-102, being eligible for the employer matching retirement contribution available to a legacy qualifying employee under Section 63A-17-805; or
(B) for a qualifying employee who is an active member in Tier II as defined in Section 49-11-102, being eligible for the employer matching retirement contribution available to a Tier II qualifying employee under Section 63A-17-805.
(f) "Qualifying employee" means the same as that term is defined in Section 63A-17-805.
(2)
(a) On or before the deadline established by the Division of Finance, each agency employee shall elect whether, on and after the change date, the employee will participate in the legacy program or the paid time off program.
(b) After the deadline to make an election under Subsection (2)(a), an employee may not modify the employee's election.
(c) If an employee does not submit a timely election under Subsection (2)(a), the employee shall participate in the paid time off program.
(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Division of Finance shall makes rules governing the process for the election described in this section, including establishing:
(a) the deadline for an employee to submit the employee's election under Subsection (2)(a); and
(b) if necessary, the deadline for an agency to report each employee's election to the Division of Finance.

Enacted by Chapter 357, 2026 General Session

63A-17-515 Paid time off.

(1) As used in this section:

(a) "Annual leave II" means the same as that term is defined in Section 63A-17-510.

(b) "Change date" means the date established by the Division of Finance under Subsection (2).

(c)

(i) "Paid time off" means leave hours an agency provides to an employee beginning on the change date, as time off from work for personal use without affecting the employee's pay.

(ii) "Paid time off" does not include:

(A) legal holidays under Section 63G-1-301;

(B) time off as compensation for actual time worked in excess of an employee's defined work period;

(C) sick leave;

(D) paid or unpaid administrative leave; or

(E) other paid or unpaid leave from work provided by state statute, administrative rule, or by federal law or regulation.

(d) "PTO employee" means an agency employee who:

(i) in accordance with Section 63A-17-514, elects to participate in the paid time off program as defined in Section 63A-17-514;

(ii) fails to submit a timely election in accordance with Section 63A-17-514; or

(iii) is hired or rehired on or after the change date.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Division of Finance shall establish a date that is not later than July 1, 2027, beginning on which an agency shall offer each PTO employee paid time off in lieu of:

(a) annual leave II; and

(b) the sick leave offered to employees as of the change date.

(3)

(a) Except as provided in Subsection (3)(b), the provisions of this section do not affect a PTO employee's balance or use of leave hours accrued before the change date.

(b) On the change date, the Division of Finance shall convert each PTO employee's accrued annual leave balance to paid time off at a one-to-one ratio.

(4)

(a) At the time a PTO employee accrues paid time off, the agency shall set aside the cost of each hour of paid time off for the PTO employee in an amount determined in accordance with rules the Division of Finance makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) In making rules under Subsection (4)(a), the Division of Finance shall consider:

(i) the PTO employee's hourly rate of pay;

(ii) applicable employer paid taxes that would be required if the PTO employee were paid for the paid time off instead of the PTO employee using the paid time off for leave;

(iii) other applicable employer paid benefits; and

(iv) adjustments due to employee hourly rate changes, including the effect on accrued paid time off balances.

(c) The Division of Finance shall deposit money set aside in accordance with Subsection (4) into the State Employees' Leave Trust Fund created in Section 67-19f-201.

(d) Subsection (4)(a) does not apply to paid time off hours that were converted from annual leave in accordance with Subsection (3), if:

(i) for converted hours that were not annual leave II hours, the agency continues to comply with the Division of Finance requirements for contributions to the termination pool; or
(ii) for converted hours that were annual leave II hours, the agency complied with the requirements of Subsection 63A-17-510(4) when the annual leave II hours were accrued.
(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules governing the accrual and use of paid time off provided under this section.

Enacted by Chapter 357, 2026 General Session

63A-17-516 Agency leave bank program.
(1) Each agency shall establish and administer a leave bank program.
(2) Each agency shall ensure that the agency's leave bank program established in accordance with this section:
(a) allows an employee to voluntarily donate the employee's paid time off to a centralized leave bank administered by the agency; and
(b) directs the agency to distribute leave from the leave bank to an employee who satisfies the agency's eligibility criteria.
(3) An employee may not donate sick leave to a leave bank established in accordance with this section.
(4) The division shall create a model leave bank program policy that complies with this section and make a copy of the model policy available to other agencies.
(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules governing leave bank programs described in this section.

Enacted by Chapter 357, 2026 General Session

Part 6
Grievance Provisions

63A-17-601 Grievance resolution -- Jurisdiction.
(1) Employees shall comply with the procedural and jurisdictional requirements of this section, Title 63G, Chapter 4, Administrative Procedures Act, and Chapter 19a, Grievance Procedures, in seeking resolution of grievances.
(2) All grievances based upon a claim or charge of injustice or oppression, including dismissal from employment, resulting from an act, occurrence, commission, or condition shall be governed by Title 67, Chapter 19a, Grievance Procedures, and Title 63G, Chapter 4, Administrative Procedures Act.
(3) All grievances involving classification shall be governed by Section 63A-17-602 and are designated as informal adjudicative proceedings as defined by Title 63G, Chapter 4, Administrative Procedures Act.
(4) All grievances by applicants for positions in state government involving an alleged discriminatory or prohibited employment practice shall be governed by Section 63A-17-603 and Title 63G, Chapter 4, Administrative Procedures Act.
(5) A "grievance" under this chapter is a request for agency action for purposes of Title 63G, Chapter 4, Administrative Procedures Act.

Renumbered and Amended by Chapter 344, 2021 General Session

63A-17-602 Position classification grievances -- Scope -- Procedure.

(1)
(a) For the purpose of position classification grievances, the process that culminates in assigning a career service position to an appropriate class specification is a matter of position classification and may be grieved.
(b) The process that culminates in assigning a salary range to the class specification is not a position classification and may not be grieved as a classification grievance.

(2)
(a) Upon receipt of a position classification grievance, the director shall refer the grievance to a classification panel of three or more impartial persons trained in state classification procedures.
(b) The classification panel shall determine whether or not the classification assignment for career service positions was appropriate by applying the statutes, rules, and procedures adopted by the division that were in effect at the time of the classification change.
(c) The classification panel may:
(i) obtain access to previous audits, classification decisions, and reports;
(ii) request new or additional audits by human resource analysts; and
(iii) consider new or additional information.
(d) The classification panel may sustain or modify the original decision and, if applicable, recommend a new classification.
(e) The classification panel shall report the classification panel's recommendation to the director, who shall make the classification decision and notify the grievant.

(3)
(a) Either party may appeal the director's decision to an impartial hearing officer trained in state classification procedures selected through a public bid process by a panel consisting of the following members:
(i) a current or former government employee with experience in human resource management;
(ii) two department executive directors;
(iii) a private sector human resources executive appointed by the governor; and
(iv) a representative of the Utah Public Employees Association.
(b) The successful bid shall serve under contract for no more than three years. At the end of that time, the division shall reissue the bid.
(c) The hearing officer shall review the classification and make the final decision. The final decision is subject to judicial review pursuant to the provisions of Section 63G-4-402.

Renumbered and Amended by Chapter 344, 2021 General Session

63A-17-603 Discriminatory/prohibited employment practices grievances -- Procedures.

(1) An applicant for a position in state government, a probationary employee, career service employee, or an exempt employee who alleges a discriminatory or prohibited employment practice as defined in Section 34A-5-106 may submit a written grievance to the department head where the alleged unlawful act occurred.
(2) Within 10 working days after a written grievance is submitted under Subsection (1), the department head shall issue a written response to the grievance stating his decision and the reasons for the decision.

(3) If the department head does not issue a decision within 10 days, or if the grievant is dissatisfied with the decision, the grievant may submit a complaint to the Division of Antidiscrimination and Labor, pursuant to Section 34A-5-107.

Renumbered and Amended by Chapter 344, 2021 General Session

Part 7
Administrative Law Judges

63A-17-701 Definitions.

In addition to the definitions found in Section 63A-17-102, as used in this part:

(1)

(a) "Administrative law judge" means an individual who is employed or contracted by a state agency who:

(i) presides over or conducts formal administrative hearings on behalf of an agency;

(ii) has the power to administer oaths, rule on the admissibility of evidence, take testimony, evaluate evidence, and make determinations of fact; and

(iii) issues written orders, rulings, or final decisions on behalf of an agency.

(b) "Administrative law judge" does not mean:

(i) an individual who reviews an order or ruling of an administrative law judge; or

(ii) the executive director of a state agency.

(2) "Committee" means the Administrative Law Judge Conduct Committee created in Section 63A-17-708.

Renumbered and Amended by Chapter 344, 2021 General Session

63A-17-702 Administrative law judges -- Applicability -- Destruction of evidence.

(1)

(a) Except as provided in Subsections (1)(b) and (2), the provisions of this part apply to an administrative law judge who conducts formal adjudicative proceedings.

(b) Except as provided in Subsection (2), the provisions of this part do not apply to an administrative law judge who is employed by or contracts with:

(i) the Board of Pardons and Parole;

(ii) the Department of Corrections; or

(iii) the State Tax Commission.

(2) The code of conduct established by the division under Subsection 63A-17-703(4) applies to all administrative law judges.

(3) An administrative law judge who tampers with or destroys evidence submitted to the administrative law judge is subject to the provisions of Section 76-8-510.5. This section does not apply to documents destroyed in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

Renumbered and Amended by Chapter 344, 2021 General Session

63A-17-703 Rulemaking authority.

The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
(1) establishing minimum performance standards for all administrative law judges;
(2) providing procedures for filing, addressing, and reviewing complaints against administrative law judges;
(3) providing standards for complaints against administrative law judges;
(4) promulgating a code of conduct for all administrative law judges in all state agencies; and
(5) establishing a procedural fairness training program as described in Section 63A-17-709.

Renumbered and Amended by Chapter 344, 2021 General Session

63A-17-704 Hiring of administrative law judges.
(1) Except as provided in Subsection (6), each administrative law judge hired on or after May 10, 2016, shall be hired in accordance with this section.
(2) If an applicant for an administrative law judge position is selected for an interview in accordance with applicable law and division rule, the agency shall interview the applicant by means of a hiring panel.
(3) The hiring panel described in Subsection (2) shall consist of:
(a) the head of the hiring agency;
(b) the head of another agency, appointed by the director; and
(c) the director.
(4) Each individual described in Subsection (3) may designate another individual to serve on the hiring panel on the individual's behalf.
(5) After the hiring panel completes the interviews for an administrative law judge position:
(a) the hiring panel shall select the top three applicants for the administrative law judge position; and
(b) the head of the hiring agency shall:
(i) consider any opinions or feedback from the other members of the hiring panel with respect to the top three applicants; and
(ii)
(A) hire an applicant from the top three applicants to fill the administrative law judge position; or
(B) decide not to hire any of the top three applicants and restart the hiring process to fill the administrative law judge position.
(6) This section does not apply to an administrative law judge who is appointed by the governor.

Renumbered and Amended by Chapter 344, 2021 General Session

63A-17-705 Performance evaluation of administrative law judges.
(1) The division shall prepare a performance evaluation for each administrative law judge contracted or employed by a state agency.
(2) The performance evaluation for an administrative law judge shall include:
(a) the results of the administrative law judge's performance evaluations conducted by the employing agency since the administrative law judge's last performance evaluation conducted by the division in accordance with the performance evaluation procedure for the agency;
(b) information from the employing agency concerning the administrative law judge's compliance with minimum performance standards;
(c) the administrative law judge's disciplinary record, if any;

(d) the results of any performance surveys conducted since the administrative law judge's last performance review conducted by the division; and
(e) any other factor that the division considers relevant to evaluating the administrative law judge's performance.
(3) If an administrative law judge fails to meet the minimum performance standards the division shall provide a copy of the performance evaluation and survey to the employing agency.
(4) The division shall conduct performance reviews every four years for administrative law judges contracted or employed by an agency.

Renumbered and Amended by Chapter 344, 2021 General Session

63A-17-706 Performance surveys.
(1) All administrative law judges shall be on a four-year staggered cycle for performance evaluations.
(2) The performance survey shall include as respondents a sample of each of the following groups as applicable:
(a) attorneys who have appeared before the administrative law judge as counsel; and
(b) staff who have worked with the administrative law judge.
(3) The division may include an additional classification of respondents if the division:
(a) considers a survey of that classification of respondents helpful to the division; and
(b) establishes the additional classification of respondents by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
(4) A survey response is anonymous, including any comment included with a survey response.
(5) If the division provides any information to an administrative law judge or the committee, the information shall be provided in a manner to protect the confidentiality of a survey respondent.
(6) If the division establishes an additional classification, in accordance with Subsection (3), a survey shall be provided to a potential survey respondent within 30 days of the day on which the case in which the person appeared before the administrative law judge is closed, exclusive of any appeal. Staff and attorneys may be surveyed at any time during the survey period.
(7) The performance survey shall include questions relating to whether the administrative law judge's behavior furthers the following elements of procedural fairness:
(a) neutrality, including:
(i) consistent and equal treatment of the individuals who appear before the administrative law judge;
(ii) concern for the individual needs of the individuals who appear before the administrative law judge; and
(iii) careful deliberation;
(b) respectful treatment of others; and
(c) providing individuals a voice and opportunity to be heard.
(8) The performance survey may include questions concerning an administrative law judge's:
(a) legal ability, including the following:
(i) demonstration of understanding of the substantive law and any relevant rules of procedure and evidence;
(ii) attentiveness to factual and legal issues before the administrative law judge;
(iii) adherence to precedent and ability to clearly explain departures from precedent;
(iv) grasp of the practical impact on the parties of the administrative law judge's rulings, including the effect of delay and increased litigation expense;
(v) ability to write clear opinions and decisions; and

(vi) ability to clearly explain the legal basis for opinions;
(b) temperament and integrity, including the following:
(i) demonstration of courtesy toward attorneys, staff, and others in the administrative law judge's department;
(ii) maintenance of decorum in the courtroom;
(iii) demonstration of judicial demeanor and personal attributes that promote public trust and confidence in the administrative law judge system;
(iv) preparedness for oral argument;
(v) avoidance of impropriety or the appearance of impropriety;
(vi) display of fairness and impartiality toward all parties; and
(vii) ability to clearly communicate, including the ability to explain the basis for written rulings, court procedures, and decisions; and
(c) administrative performance, including the following:
(i) management of workload;
(ii) sharing proportionally the workload within the division; and
(iii) issuance of opinions and orders without unnecessary delay.
(9) If the division determines that a certain survey question or category of questions is not appropriate for a respondent group, the division may omit that question or category of questions from the survey provided to that respondent group.
(10)
(a) The survey shall allow respondents to indicate responses in a manner determined by the division, which shall be:
(i) on a numerical scale from one to five; or
(ii) in the affirmative or negative, with an option to indicate the respondent's inability to respond in the affirmative or negative.
(b) To supplement the responses to questions on either a numerical scale or in the affirmative or negative, the division may allow respondents to provide written comments.
(11) The division shall compile and make available to each administrative law judge that administrative law judge's survey results with each of the administrative law judge's performance evaluations.

Renumbered and Amended by Chapter 344, 2021 General Session

63A-17-707 Complaints.
(1) A complaint against an administrative law judge shall be filed with the division.
(2) Upon receipt of a complaint, the division shall conduct an investigation.
(3) If the division's investigation determines that the complaint is frivolous or without merit, it may dismiss it without further action. A complaint that merely indicates disagreement, without further misconduct, with the administrative law judge's decision shall be treated as without merit.
(4) The contents of all complaints and subsequent investigations are classified as protected under Title 63G, Chapter 2, Government Records Access and Management Act.

Renumbered and Amended by Chapter 344, 2021 General Session

63A-17-708 Administrative Law Judge Conduct Committee.
(1) There is created the Administrative Law Judge Conduct Committee to investigate, review, and hear complaints filed against administrative law judges.

(2) The committee shall be composed of:
(a) the director, or the director's designee, as chair; and
(b) four executive directors, or their designees, of agencies that employ or contract with administrative law judges, to be selected by the director as needed.
(3) The division shall provide staff for the committee as needed.

Renumbered and Amended by Chapter 344, 2021 General Session

63A-17-709 Procedure for review of complaint by conduct committee.
(1) Upon a determination that a complaint requires further action, the director shall select four executive directors or their designees and convene the committee. The executive director of the agency that employs or contracts with the administrative law judge who is the subject of the complaint may not be a member of the committee.
(2) The division shall provide a copy of the complaint, along with the results of the division's investigation, to the committee and the administrative law judge who is the subject of the complaint. If the committee directs, a copy of the complaint and investigation may also be provided to the attorney general.
(3) The committee shall allow an administrative law judge who is the subject of a complaint to appear and speak at any committee meeting, except a closed meeting, during which the committee is deliberating the complaint.
(4) The committee may meet in a closed meeting to discuss a complaint against an administrative law judge by complying with Title 52, Chapter 4, Open and Public Meetings Act.
(5) After deliberation and discussion of the complaint and all information provided, the committee shall provide a report, with a recommendation, to the agency. The recommendation shall include:
(a) a brief description of the complaint and results of the division's investigation;
(b) the committee's findings; and
(c) a recommendation from the committee whether action should be taken against the administrative law judge.
(6) Actions recommended by the committee may include no action, disciplinary action, termination, or any other action an employer may take against an employee.
(7) The record of an individual committee member's vote on recommended actions against an administrative law judge is a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.

Renumbered and Amended by Chapter 344, 2021 General Session

63A-17-710 Required training.
(1) Each year that an administrative law judge receives a performance evaluation conducted by the division under this chapter, the administrative law judge shall complete the procedural fairness training program described in this section.
(2) The division shall establish a procedural fairness training program that includes training on how an administrative law judge's actions and behavior influence others' perceptions of the fairness of the adjudicative process.
(3) The procedural fairness training program shall include discussion of the following elements of procedural fairness:
(a) neutrality, including:

(i) consistent and equal treatment of the individuals who appear before the administrative law judge;
(ii) concern for the individual needs of the individuals who appear before the administrative law judge; and
(iii) unhurried and careful deliberation;
(b) respectful treatment of others; and
(c) providing individuals a voice and opportunity to be heard.
(4) The division may contract with a public or private person to develop or provide the procedural fairness training program.
(5) The division shall ensure that the procedural fairness training program complies with Title 63G, Chapter 22, State Training and Certification Requirements.

Renumbered and Amended by Chapter 344, 2021 General Session

Part 8
Plans and Programs

63A-17-801 Equal employment opportunity plan.
(1) In conjunction with the director's duties under Section 63A-17-106, and notwithstanding the general prohibition in Subsection 34A-5-106(3)(c), the director shall prepare an equal employment opportunity plan for state employment consistent with the guidelines provided in federal equal employment opportunity laws and in related federal regulations.
(2) The equal employment opportunity plan required by this section applies only to state career service employees described in Section 63A-17-301.
(3) The Legislature shall review the equal employment opportunity plan required by this section before it may be implemented.
(4) Nothing in this section requires the establishment of hiring quotas or preferential treatment of any identifiable group.

Renumbered and Amended by Chapter 344, 2021 General Session

63A-17-802 Education benefit plan for law enforcement and correctional officers.
(1) As used in this section:
(a) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.
(b) "Correctional officer" means the same as that term is defined in Section 53-13-104.
(2) The director shall establish a plan authorizing any agency to implement an educational compensation program for law enforcement officers and correctional officers employed by that agency.
(3) The program shall provide that in order for a law enforcement officer or correctional officer to qualify for education benefits for college or university education, the law enforcement officer or correctional officer shall:
(a) provide a certified transcript of grades, demonstrating a grade point average of 3.0 or greater, from an accredited college or university; and
(b) have successfully completed the probationary employment period with the employing agency.
(4) The program shall also provide that the agency may consider a law enforcement officer or correctional officer to receive additional compensation as follows for higher education degrees

earned on or after April 30, 2001, in a subject area directly related to the law enforcement officer's or correctional officer's employment with the agency:
(a) 5.5% for an associate's degree;
(b) 5.5% for a bachelor's degree; and
(c) 5.5% for a master's degree.
(5) Expenses incurred by an agency to provide additional compensation under this section may be only from the agency's existing budget.

Renumbered and Amended by Chapter 344, 2021 General Session

63A-17-803 Creation of Flexible Benefit Program -- Rulemaking power granted to establish program.
(1) The division shall establish for calendar year 1990 and thereafter a Flexible Benefit Program under Section 125 of the Internal Revenue Code of 1986.
(2) The division shall establish accounts for all employees eligible for benefits which meet the nondiscrimination requirements of the Internal Revenue Code of 1986.
(3)
(a) Each account established under this section shall include employee paid premiums for health and dental services.
(b) The account may also include, at the option of the employee, out-of-pocket employee medical and dependent care expenses.
(c) Accounts may also include other expenses allowed under the Internal Revenue Code of 1986.
(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to implement the program established under this section.

Renumbered and Amended by Chapter 344, 2021 General Session

63A-17-804 Continuation of Insurance Benefits Program -- Creation -- Coverage following death in the line of duty.
(1) There is created the "Continuation of Insurance Benefits Program" to provide a continuation of insurance to the surviving spouse and family of any state employee whose death occurs in the line of duty.
(2) The insurance coverage shall be the same coverage as provided under Section 49-20-406.
(3) The program provides that unused accumulated sick leave of a deceased employee may be used for additional medical coverage in the same manner as provided under Section 63A-17-507 or 63A-17-508 as applicable.

Renumbered and Amended by Chapter 344, 2021 General Session

63A-17-805 State employee matching supplemental defined contribution benefit.
(1) As used in this section:
(a) "Active member" means the same as that term is defined in Section 49-11-102.
(b) "Change date" means the same as that term is defined in Section 63A-17-515.
(c) "Legacy employee" means an agency employee who, in accordance with Section 63A-17-514, elects to participate in the legacy program as defined in Section 63A-17-514.
(d) "Legacy qualifying employee" means:
(i) a qualifying employee who is an active member in Tier I, as defined in Section 49-11-102; or
(ii) a legacy employee.

(e) "Qualifying account" means:
(i) a defined contribution plan qualified under Section 401(k) of the Internal Revenue Code, which is sponsored by the Utah State Retirement Board;
(ii) a deemed Individual Retirement Account authorized under the Internal Revenue Code, which is sponsored by the Utah State Retirement Board; or
(iii) a similar savings plan or account authorized under the Internal Revenue Code, which is sponsored by the Utah State Retirement Board.
(f) "Qualifying employee" means an employee who is:
(i) in a position that is:
(A) receiving retirement benefits under Title 49, Utah State Retirement and Insurance Benefit Act; and
(B) accruing paid leave benefits that can be used in the current and future calendar years; and
(ii) not an employee who is reemployed as that term is:
(A) defined in Section 49-11-1202; or
(B) used in Section 49-11-504.
(g) "Tier II qualifying employee" means a qualifying employee who:
(i) is an active member in Tier II, as defined in Section 49-11-102; and
(ii) is not a legacy employee.
(2) Subject to the requirements of Subsection (3) and applicable federal law, an employer shall make a biweekly matching contribution to every qualifying employee's defined contribution plan qualified under Section 401(k) of the Internal Revenue Code, which is sponsored by the Utah State Retirement Board, as follows:
(a) before the change date, at a 100% match rate; or
(b) on or after the change date:
(i) for a legacy qualifying employee, at a 100% match rate; and
(ii) for a Tier II qualifying employee, at a 100% match rate for the first $26 the employee contributes and at a 50% match rate for any amount the employee contributes above $26.
(3)
(a) A qualifying employee who is hired before July 1, 2023:
(i) shall receive the contribution amount determined under Subsection (3)(e) if the qualifying employee makes a voluntary personal contribution to one or more qualifying accounts in an amount equal to or greater than the employer's contribution amount determined under Subsection (3)(e);
(ii) shall receive a partial contribution amount that is equal to the qualifying employee's personal contribution amount if the employee makes a voluntary personal contribution to one or more qualifying accounts in an amount less than the employer's contribution amount determined under Subsection (3)(e); or
(iii) may not receive a contribution under Subsection (2) if the qualifying employee does not make a voluntary personal contribution to a qualifying account.
(b)
(i) An employer shall automatically enroll a qualifying employee who is hired on or after July 1, 2023, to make a personal contribution to a defined contribution plan qualified under Section 401(k) of the Internal Revenue Code, which is sponsored by the Utah State Retirement Board, in an amount equal to the lesser of:
(A) the employer's contribution amount determined under Subsection (3)(e); or
(B) $26.

(ii) A qualifying employee who makes a personal contribution in accordance with Subsection (3)(b)(i) shall receive the lesser of:
(A) the contribution amount determined under Subsection (3)(e); or
(B) $26.
(c)
(i) A qualifying employee who is hired on or after July 1, 2023, may opt out of the automatic enrollment by choosing not to make any future personal contributions.
(ii) Subject to Subsection (3)(d), a qualifying employee who opts out of automatic enrollment in accordance with this Subsection (3)(c) may not receive a contribution under Subsection (2).
(d)
(i) A qualifying employee who is hired on or after July 1, 2023, may modify the automatic enrollment by opting to make future personal contributions:
(A) in an amount other than the amount determined under Subsection (3)(b); or
(B) to a qualifying account other than the defined contribution plan qualified under Section 401(k) of the Internal Revenue Code, which is sponsored by the Utah State Retirement Board.
(ii) A qualifying employee who opts to make a personal contribution for less than the amount determined under Subsection (3)(b) shall receive a partial contribution that is equal to the qualifying employee's personal contribution amount.
(e)
(i) Subject to the maximum limit under Subsection (3)(e)(iii) or (iv), the Legislature shall annually determine the contribution amount that an employer shall provide to each qualifying employee under Subsection (2).
(ii) The division shall make recommendations annually to the Legislature on the contribution amount required under Subsection (2), in consultation with the Governor's Office of Planning and Budget and the Division of Finance.
(iii) Before the change date, the biweekly matching contribution amount required under Subsection (2) may not exceed $26 for each qualifying employee.
(iv) On or after the change date, the biweekly matching contribution amount required under Subsection (2) may not exceed:
(A) for a legacy qualifying employee, $26; or
(B) for a Tier II qualifying employee, the greater of 2% of the qualifying employee's biweekly salary or $26.

(4) A qualifying employee is eligible to receive the biweekly contribution under this section for any pay period in which the employee is in a paid status or other status protected by federal or state law.
(5) The employer and employee contributions made and related earnings under this section vest immediately upon deposit and can be withdrawn by the employee at any time, subject to Internal Revenue Code regulations on the withdrawals.
(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director shall make rules establishing procedures to implement the provisions of this section.

Amended by Chapter 357, 2026 General Session

63A-17-807 Department award program.

(1) As used in this section:
(a) "Department" means the Department of Government Operations, the Department of Agriculture and Food, the Department of Alcoholic Beverage Services, the Department

of Commerce, the Department of Cultural and Community Engagement, the Department of Corrections, the Department of Workforce Services, the Department of Environmental Quality, the Department of Financial Institutions, the Department of Health, the Department of Human Services, the Insurance Department, the National Guard, the Department of Natural Resources, the Department of Public Safety, the Public Service Commission, the Labor Commission, the State Board of Education, the Utah Board of Higher Education, the State Tax Commission, and the Department of Transportation.

(b) "Department head" means the individual or body of individuals in whom the ultimate legal authority of the department is vested by law.

(2) There is created a department awards program to award an outstanding employee in each department of state government.

(3)

(a) On or before April 1 of each year, each department head shall solicit nominations for outstanding employee of the year for that department from the employees in that department.

(b) On or before July 1 of each year, the department head shall:

(i) select a person from the department to receive the outstanding employee of the year award using the criteria established in Subsection (3)(c); and

(ii) announce the recipient of the award to the employees of the department.

(c) Department heads shall make the award to an employee who demonstrates:

(i) extraordinary competence in performing the employee's function;

(ii) creativity in identifying problems and devising workable, cost-effective solutions;

(iii) excellent relationships with the public and other employees;

(iv) a commitment to serving the public as the client; and

(v) a commitment to economy and efficiency in government.

(4)

(a) The division shall divide any appropriation for outstanding department employee awards that the division receives from the Legislature equally among the departments.

(b) If a department receives money from the division or if a department budget allows, that department head shall provide the employee with a bonus, a plaque, or some other suitable acknowledgement of the award.

(5)

(a) A department head may name the award after an exemplary present or former employee of the department.

(b) A department head may not name the award for oneself or for any relative as defined in Section 52-3-1.

Amended by Chapter 447, 2022 General Session

63A-17-808 On-site child care for state employees.

(1) As used in this section:

(a) "Child care" means the same as that term is defined in Section 35A-3-201.

(b) "Licensed child care provider" means a person who holds a license from the Department of Health and Human Services to provide center based child care in accordance with Title 26B, Chapter 2, Part 4, Child Care Licensing.

(c) "On-site child care center" means a child care center established in a facility that is owned or operated by an agency.

(2) An agency may enter into a contract with a licensed child care provider to operate an on-site child care center for the benefit of the agency's employees.

(3) A licensed child care provider that operates an on-site child care center for an agency shall maintain professional liability insurance.
(4)
(a) An agency may charge a licensed child care provider a reasonable fee for operating an on-site child care center so that the agency incurs no expense.
(b) The fee in Subsection (4)(a) shall include costs for utility, building maintenance, and administrative services supplied by the agency that are related to the operation of the on-site child care center.
(5) An agency may consult with the Office of Child Care within the Department of Workforce Services, the Department of Health and Human Services, and the Division of Facilities Construction and Management for assistance in establishing an on-site child care center.
(6) The state is not liable for any civil damages for acts or omissions resulting from the operation of an on-site child care center.

Amended by Chapter 381, 2024 General Session

63A-17-809 Guidance and data collection regarding employment of individuals with criminal histories.

The division shall:
(1) provide information and guidance to agencies encouraging the hiring of individuals with criminal histories, including:
(a) skills developed during incarceration through the Division of Correctional Industries and any other relevant program; and
(b) guidelines to determine whether an applicant's conviction, disclosed in accordance with Section 34-52-201, is a job-related conviction; and
(2) ensure that agency job opportunities available to individuals with criminal histories are included in the web portal.

Amended by Chapter 243, 2026 General Session

Part 9
General Requirements for State Officers and Employees

63A-17-904 Political activity of employees -- Rules and regulations -- Highway patrol -- Hatch Act.

(1) Except as otherwise provided by law or by rules made under this section for federally aided programs, the provisions of this section apply with regard to political activity of career service employees in all grades and positions.
(2) Career service employees may voluntarily participate in political activity subject to the following provisions:
(a) if any career service employee is elected to any partisan or full-time nonpartisan political office, that employee shall be granted a leave of absence without pay for times when monetary compensation is received for service in political office;
(b) no officer or employee in career service may engage in any political activity during the hours of employment, nor may any person solicit political contributions from employees of the executive branch during hours of employment for political purposes; and

(c) partisan political activity may not be a basis for employment, promotion, demotion, or dismissal, except that the director shall adopt rules providing for the discipline or punishment of a state officer or employee who violates any provision of this section.

(3)

(a) Notwithstanding any other provision of this section, no member of the Utah Highway Patrol may use the member's official authority or influence for the purpose of interfering with an election or affecting the results of an election.

(b) No person may induce or attempt to induce any member of the Utah Highway Patrol to participate in any activity prohibited by this Subsection (3).

(4) Nothing contained in this section may be construed to:

(a) preclude voluntary contributions by an employee to the party or candidate of the officer's or employee's choice; or

(b) permit partisan political activity by any employee who is prevented or restricted from engaging in the political activity by the provisions of the federal Hatch Act.

Renumbered and Amended by Chapter 344, 2021 General Session

Part 10
Controlled Substances and Alcohol Use

63A-17-1001 Controlled substances and alcohol use prohibited.

Except as provided in Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, an employee may not:

(1) manufacture, dispense, possess, use, distribute, or be under the influence of a controlled substance or alcohol during work hours or on state property except where legally permissible;

(2) manufacture, dispense, possess, use, or distribute a controlled substance or alcohol if the activity prevents:

(a) state agencies from receiving federal grants or performing under federal contracts of $25,000 or more; or

(b) the employee to perform his services or work for state government effectively as regulated by the rules of the executive director in accordance with Section 63A-17-1002; or

(3) refuse to submit to a drug or alcohol test under Section 63A-17-1004.

Amended by Chapter 329, 2023 General Session

63A-17-1002 Rulemaking power to director.

In accordance with this part and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director shall make rules regulating:

(1) disciplinary actions for employees subject to discipline under Section 63A-17-1005;

(2) the testing of employees for the use of controlled substances or alcohol as provided in Section 63A-17-1004;

(3) the confidentiality of drug testing and test results performed under Section 63A-17-1004 in accordance with Title 63G, Chapter 2, Government Records Access and Management Act; and

(4) minimum blood levels of alcohol or drug content for work effectiveness of an employee.

Renumbered and Amended by Chapter 344, 2021 General Session

63A-17-1003 Reporting of convictions under federal and state drug laws.

(1) An employee who is convicted under a federal or state criminal statute regulating the manufacture, distribution, dispensation, possession, or use of a controlled substance shall report the conviction to the director of the employee's agency within five calendar days after the date of conviction.

(2) Upon notification either under Subsection (1) or otherwise, the director of the agency shall notify the federal agency for which a contract is being performed within 10 days after receiving notice.

Renumbered and Amended by Chapter 344, 2021 General Session

63A-17-1004 Drug testing of state employees.

(1) Except as provided in Subsection (2), when there is reasonable suspicion that an employee is using a controlled substance or alcohol unlawfully during work hours, an employee may be required to submit to medically accepted testing procedures for a determination of whether the employee is using a controlled substance or alcohol in violation of this part.

(2) In highly sensitive positions, as identified in department class specifications, random drug testing of employees may be conducted by an agency in accordance with the rules of the director.

(3) All drug or alcohol testing shall be:

(a) conducted by a federally certified and licensed physician, a federally certified and licensed medical clinic, or testing facility federally certified and licensed to conduct medically accepted drug testing; and

(b) conducted in accordance with the rules of the director made under Section 63A-17-1002.

(4) A record relating to drug or alcohol testing of a state employee is classified as a private record under Section 63G-2-302.

(5) A physician, medical clinic, or testing facility may not be held liable in any civil action brought by a party for:

(a) performing or failing to perform a test under this section;

(b) issuing or failing to issue a test result under this section; or

(c) acting or omitting to act in any other way in good faith under this section.

Amended by Chapter 169, 2022 General Session

63A-17-1005 Discipline of employees.

An employee shall be subject to the rules of discipline of the director made in accordance with Section 63A-17-1002, if the employee:

(1) refuses to submit to testing procedures provided in Section 63A-17-1004;

(2) refuses to complete a drug rehabilitation program in accordance with Subsection 63A-17-1006(3);

(3) is convicted under a federal or state criminal statute regulating the manufacture, distribution, dispensation, possession, or use of a controlled substance; or

(4) manufactures, dispenses, possesses, uses, or distributes a controlled substance in violation of state or federal law during work hours or on state property.

Renumbered and Amended by Chapter 344, 2021 General Session

63A-17-1006 Violations and penalties.

In addition to other criminal penalties provided by law, an employee who:

(1) fails to notify the employee's director under Section 63A-17-1003 is subject to disciplinary proceedings as established by the director by rule in accordance with Section 63A-17-1002;

(2) refuses to submit to testing procedures provided for in Section 63A-17-1004, may be suspended immediately without pay pending further disciplinary action as provided by rule, made by the director in accordance with Section 63A-17-1002; or

(3) tests positive for the presence of unlawfully used controlled substances or alcohol may be required, as part of the employee's disciplinary treatment, to complete a drug rehabilitation program at the employee's expense within 60 days after receiving the positive test results or be subject to further disciplinary procedures established by rule made by the director in accordance with Section 63A-17-1002.

Renumbered and Amended by Chapter 344, 2021 General Session

63A-17-1007 Exemptions.

Peace officers, as defined under Title 53, Chapter 13, Peace Officer Classifications, acting in their official capacity as peace officers in undercover roles and assignments, are exempt from the provisions of this act.

Renumbered and Amended by Chapter 344, 2021 General Session

Chapter 19
Government Data Privacy Act

Part 1
General Provisions -- State Data Privacy Policy

63A-19-101 Definitions.

As used in this chapter:

(1) "Anonymized data" means information that has been irreversibly modified so that there is no possibility of using the information, alone or in combination with other information, to identify an individual.

(2) "At-risk government employee" means the same as that term is defined in Section 63A-19-408.

(3) "Automated decision making" means using personal data to make a decision about an individual through automated processing, without human review or intervention.

(4) "Biometric data" means the same as that term is defined in Section 13-61-101.

(5)

(a) "Chief administrative officer" means the same as that term is defined in Section 63A-12-100.5.

(b) "Chief administrative officer" for a municipality may be, in the municipality's discretion, a separate and distinct role from the chief administrative officer role described in Section 11-50-202.

(6) "Chief privacy officer" means the individual appointed under Section 63A-19-302.

(7) "Commission" means the Utah Privacy Commission established in Section 63A-19-203.

(8) "Contract" means an agreement between a governmental entity and a person for goods or services that involve personal data.
(9)
(a) "Contractor" means a person who:
(i) has entered into a contract with a governmental entity; and
(ii) may process personal data under the contract.
(b) "Contractor" includes a contractor's employees, agents, or subcontractors.
(10) "Cyber Center" means the Utah Cyber Center created in Section 63A-16-1102.
(11) "Data breach" means the unauthorized access, acquisition, disclosure, loss of access, or destruction of personal data held by a governmental entity, unless the governmental entity concludes, according to standards established by the Cyber Center, that there is a low probability that personal data has been compromised.
(12) "Data privacy complaint" means a complaint or concern raised by an individual regarding:
(a) an alleged infringement on the individual's data privacy interests described in Subsection 63A-19-102(1); or
(b) a governmental entity's data privacy practices described in Part 4, Duties of Governmental Entities.
(13) "De-identified data" means information from which personal data has been removed or obscured so that the information is not readily identifiable to a specific individual, and which may not be re-identified.
(14) "Genetic data" means the same as that term is defined in Section 13-60-102.
(15) "Governing board" means the Utah Privacy Governing Board established in Section 63A-19-201.
(16) "Governmental entity" means the same as that term is defined in Section 63G-2-103.
(17) "Government website" means a set of related web pages that is operated by or on behalf of a governmental entity and is:
(a) located under a single domain name or web address; and
(b) accessible directly through the internet or by the use of a software program.
(18)
(a) "High-risk processing activities" means a governmental entity's processing of personal data that may have a significant impact on an individual's privacy interests, based on factors that include:
(i) the sensitivity of the personal data processed;
(ii) the amount of personal data being processed;
(iii) the individual's ability to consent to the processing of personal data; and
(iv) risks of unauthorized access or use.
(b) "High-risk processing activities" may include the use of:
(i) facial recognition technology;
(ii) automated decision making;
(iii) profiling;
(iv) genetic data of a living person;
(v) biometric data; or
(vi) specific geolocation data.
(19) "Independent entity" means the same as that term is defined in Section 63E-1-102.
(20) "Individual" means the same as that term is defined in Section 63G-2-103.
(21) "Legal guardian" means:
(a) the parent of a minor; or

(b) an individual appointed by a court to be the guardian of a minor or incapacitated individual and given legal authority to make decisions regarding the person or property of the minor or incapacitated individual.

(22) "Office" means the Utah Office of Data Privacy created in Section 63A-19-301.

(23) "Ombudsperson" means the data privacy ombudsperson appointed under Section 63A-19-501.

(24) "Person" means the same as that term is defined in Section 63G-2-103.

(25) "Personal data" means information that is linked or can be reasonably linked to an identified individual or an identifiable individual.

(26) "Privacy annotation" means a summary of personal data contained in a record series as described in Section 63A-19-401.1.

(27) "Privacy practice" means a governmental entity's:

(a) organizational, technical, administrative, and physical safeguards designed to protect an individual's personal data;

(b) policies and procedures related to the acquisition, use, storage, sharing, retention, and disposal of personal data; and

(c) practice of providing notice to an individual regarding the individual's privacy rights.

(28) "Process," "processing," or "processing activity" means any operation or set of operations performed on personal data, including collection, recording, organization, structuring, storage, adaptation, alteration, access, retrieval, consultation, use, disclosure by transmission, transfer, dissemination, alignment, combination, restriction, erasure, or destruction.

(29) "Profiling" means any form of automated processing performed on personal data to evaluate, analyze, or predict an identified or identifiable individual's economic situation, health, personal preferences, interests, reliability, behavior, location, or movements..

(30)

(a) "Purchase" or "purchasing" means the exchange of monetary consideration to obtain the personal data of an individual who is not a party to the transaction.

(b) "Purchase" or "purchasing" does not include payment from one governmental entity to another governmental entity for access to a record in accordance with Section 63G-2-203.

(31) "Record" means the same as that term is defined in Section 63G-2-103.

(32) "Record series" means the same as that term is defined in Section 63G-2-103.

(33) "Retention schedule" means a governmental entity's schedule for the retention or disposal of records that has been approved by the Records Management Committee pursuant to Section 63A-12-113.

(34)

(a) "Sell" means the transfer of personal data in exchange for monetary consideration by a governmental entity to a third party.

(b) "Sell" does not include a fee:

(i) charged by a governmental entity for access to a record pursuant to Section 63G-2-203; or

(ii) assessed in accordance with an approved fee schedule.

(35) "Specific geolocation data" means the same as that term is defined in Section 13-61-101.

(36)

(a) "State agency" means the following entities that are under the direct supervision and control of the governor or the lieutenant governor:

(i) a department;

(ii) a commission;

(iii) a board;

(iv) a council;

(v) an institution;
(vi) an officer;
(vii) a corporation;
(viii) a fund;
(ix) a division;
(x) an office;
(xi) a committee;
(xii) an authority;
(xiii) a laboratory;
(xiv) a library;
(xv) a bureau;
(xvi) a panel;
(xvii) another administrative unit of the state; or
(xviii) an agent of an entity described in Subsections (36)(a)(i) through (xvii).
(b) "State agency" does not include:
(i) the legislative branch;
(ii) the judicial branch;
(iii) an executive branch agency within the Office of the Attorney General, the state auditor, the state treasurer, or the State Board of Education; or
(iv) an independent entity.
(37) "Synthetic data" means artificial data that:
(a) is generated from personal data; and
(b) models the statistical properties of the original personal data.
(38) "User" means an individual who accesses a government website.
(39)
(a) "User data" means any information about a user that is automatically collected by a government website when a user accesses the government website.
(b) "User data" includes information that identifies:
(i) a user as having requested or obtained specific materials or services from a government website;
(ii) internet sites visited by a user;
(iii) the contents of a user's data-storage device;
(iv) any identifying code linked to a user of a government website; and
(v) a user's:
(A) IP or Mac address; or
(B) session ID.
(40) "Website tracking technology" means any tool used by a government website to:
(a) monitor a user's behavior; or
(b) collect user data.

Amended by Chapter 202, 2026 General Session

63A-19-102 State data privacy policy.

It is the policy of Utah that:
(1) an individual has a fundamental interest in and inherent expectation of privacy regarding the individual's personal data that the individual provides to a governmental entity;
(2) a governmental entity shall process personal data in a manner that is consistent with the interests and expectations described in Subsection (1);

(3) the state shall encourage innovation to enhance the ability of a governmental entity to:
(a) protect the privacy of an individual's personal data;
(b) provide clear notice to an individual regarding the governmental entity's processing of the individual's personal data;
(c) process personal data only for specified, lawful purposes and only process the minimum amount of an individual's personal data necessary to achieve those purposes;
(d) implement appropriate consent mechanisms regarding the uses of an individual's personal data;
(e) provide an individual with the ability to access, control, and request corrections to the individual's personal data held by a governmental entity;
(f) maintain appropriate safeguards to protect the confidentiality, integrity, and availability of personal data;
(g) account for compliance with privacy related laws, rules, and regulations that are specific to a particular governmental entity, program, or personal data; and
(h) meet a governmental entity's and an individual's business and service needs;
(4) the state shall promote training and education programs for employees of governmental entities focused on:
(a) data privacy best practices, obligations, and responsibilities; and
(b) the overlapping relationship with privacy, records management, and security; and
(5) the state shall promote consistent terminology in data privacy requirements across governmental entities.

Amended by Chapter 475, 2025 General Session

Part 2
Utah Privacy Governing Board And Utah Privacy Commission

63A-19-201 Utah Privacy Governing Board.

(1) There is created the Utah Privacy Governing Board.
(2) The governing board shall be composed of five members as follows:
(a) the governor, or the governor's designee;
(b) the president of the Senate, or the president's designee;
(c) the speaker of the House of Representatives, or the speaker's designee;
(d) the attorney general, or the attorney general's designee; and
(e) the state auditor, or the state auditor's designee.
(3)
(a) A majority of the members of the governing board is a quorum.
(b) The action of a majority of a quorum constitutes an action of the governing board.
(4) The governor, or the governor's designee is chair of the governing board.
(5) The governing board shall meet at least two times a year.
(6) The governing board may recommend specific matters to the state auditor under Section 63A-19-601.
(7) The office shall provide staff and support to the governing board.

Enacted by Chapter 417, 2024 General Session

63A-19-202 Governing board duties.

(1) The governing board shall:
  (a) recommend changes to the state data privacy policy;
  (b) hear issues raised by the ombudsperson regarding existing governmental entity privacy practices;
  (c) evaluate and recommend the appropriate:
    (i) structure and placement for the office within state government; and
    (ii) authority to be granted to the office, including any authority to make rules; and
  (d) recommend funding mechanisms and strategies for governmental entities to enable compliance with data privacy responsibilities, including:
    (i) appropriations;
    (ii) rates;
    (iii) grants; and
    (iv) internal service funds.

(2) In fulfilling the duties under this part, the governing board may receive and request input from:
  (a) governmental entities;
  (b) elected officials;
  (c) subject matter experts; and
  (d) other stakeholders.

Amended by Chapter 202, 2026 General Session

63A-19-203 Utah Privacy Commission created.

(1) There is created the Utah Privacy Commission.

(2)
  (a) The commission shall be composed of no more than 14 members.
  (b) The governor shall appoint:
    (i) one member who, at the time of appointment provides internet technology services for a county;
    (ii) one member with experience in cybersecurity;
    (iii) one member representing private industry in technology;
    (iv) one member representing law enforcement;
    (v) one member with experience in data privacy law; and
    (vi) one member who is a private citizen representing the public.
  (c) The State Board of Education shall appoint one member representing public education entities and the privacy interests of students.
  (d) The state auditor shall appoint:
    (i) one member with experience in internet technology services;
    (ii) one member with experience in cybersecurity;
    (iii) one member representing private industry in technology;
    (iv) one member with experience in data privacy law; and
    (v) one member representing municipalities.
  (e) The attorney general shall appoint:
    (i) one member with experience as a prosecutor or appellate attorney and with experience in data privacy or civil liberties law; and
    (ii) one member representing law enforcement.

(3)
  (a) Except as provided in Subsection (3)(b), a member is appointed for a term of four years.

(b) The initial appointments of members described in Subsections (2)(b)(i) through (iii), (2)(d)(iv) and (v), and (2)(e)(ii) shall be for two-year terms.
(c) When the term of a current member expires, a member shall be reappointed or a new member shall be appointed in accordance with Subsection (2).
(4)
(a) When a vacancy occurs in the membership for any reason, a replacement shall be appointed in accordance with Subsection (2) for the unexpired term.
(b) A member whose term has expired may continue to serve until a replacement is appointed.
(5) The commission shall select officers from the commission's members as the commission finds necessary.
(6)
(a) A majority of the members of the commission is a quorum.
(b) The action of a majority of a quorum constitutes an action of the commission.
(7) A member may not receive compensation or benefits for the member's service but may receive per diem and travel expenses incurred as a member of the commission at the rates established by the Division of Finance under:
(a) Sections 63A-3-106 and 63A-3-107; and
(b) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.
(8) A member shall refrain from participating in a review of:
(a) an entity of which the member is an employee; or
(b) a technology in which the member has a financial interest.
(9) The office shall provide staff and support to the commission.
(10) The commission shall meet up to 12 times a year to accomplish the duties described in Section 63A-19-204.
(11)
(a) The commission shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules establishing participation requirements for commission members.
(b) A commission member who fails to meet the participation requirements established under Subsection (11)(a) may be removed by the official who appointed the member in accordance with Subsection (2).

Amended by Chapter 202, 2026 General Session

63A-19-204 Commission duties.
(1) The commission shall:
(a) annually develop, approve, and make public by May 1 of each year a data privacy agenda that identifies for the upcoming year:
(i) governmental entity privacy practices to be reviewed by the commission;
(ii) educational and training materials that the commission intends to develop;
(iii) any other items related to data privacy the commission intends to study; and
(iv) best practices and guiding principles that the commission plans to develop related to government privacy practices;
(b) develop guiding standards and best practices with respect to government privacy practices;
(c) develop educational and training materials that include information about:
(i) the privacy implications and civil liberties concerns of the privacy practices of government entities;
(ii) best practices for government collection and retention policies regarding personal data; and
(iii) best practices for government personal data security standards; and

(d) review the privacy implications and civil liberties concerns of government privacy practices.

(2) The commission may, in addition to the approved items in the data privacy agenda prepared under Subsection (1)(a):

(a) review specific government privacy practices as referred to the commission by the chief privacy officer described in Section 63A-19-302 or the state auditor;

(b) review a privacy practice not accounted for in the data privacy agenda only upon referral by the chief privacy officer or the state auditor in accordance with this section;

(c) review and provide recommendations regarding consent mechanisms used by governmental entities to collect personal data;

(d) develop and provide recommendations to the Legislature on how to balance transparency and public access of public records against an individual's reasonable expectations of privacy and data protection;

(e) develop recommendations for legislation regarding the guiding standards and best practices the commission has developed in accordance with Subsection (1)(a);

(f) consult with relevant public and private entities in the performance of the commission's duties listed in Subsection (1); and

(g) study and recommend which information contained in the privacy program report described in Section 63A-19-401.3 should be a public record.

(3) At least annually, on or before October 1, the commission shall report to the Government Operations Interim Committee:

(a) the results of any reviews the commission has conducted;

(b) the guiding standards and best practices described in Subsection (1)(b); and

(c) any recommendations for legislation the commission has developed in accordance with Subsection (2)(d).

(4)

(a) Upon request by the governing board, a member of the commission shall give an update on the work of the commission at any governing board meeting.

(b) The governing board may at any time instruct the commission to review and report upon any privacy developments related to governmental privacy within the scope of the commission's duties.

Amended by Chapter 202, 2026 General Session

Part 3
Office of Data Privacy

63A-19-301 Utah Office of Data Privacy.

(1) There is created within the department the Utah Office of Data Privacy.

(2) The office shall coordinate with the governing board and the commission to perform the duties in this section.

(3) The office shall:

(a) create and maintain a data privacy framework designed to:

(i) assist governmental entities to identify and implement effective and efficient data privacy practices, tools, and systems that:

(A) protect the privacy of personal data;

(B) comply with data privacy laws and regulations specific to the governmental entity, program, or data;
(C) empower individuals to protect and control their personal data; and
(D) enable information use and sharing among governmental entities, as allowed by law; and
(ii) account for differences in a governmental entity's resources, capabilities, populations served, data types, and maturity level regarding data privacy practices;
(b) review statutory provisions related to governmental data privacy and records management to:
(i) identify conflicts and gaps in data privacy law; and
(ii) standardize language;
(c) work with governmental entities to study, research, and identify:
(i) additional data privacy practices that are feasible for governmental entities;
(ii) potential remedies and accountability mechanisms for non-compliance of a governmental entity;
(iii) ways to expand an individual's control over the individual's personal data processed by a governmental entity;
(iv) resources needed to develop, implement, and improve data privacy programs; and
(v) best practices regarding:
(A) automated decision making;
(B) the creation and use of synthetic, de-identified, or anonymized data; and
(C) the use of website tracking technology;
(d) monitor high-risk data processing activities within governmental entities;
(e) coordinate with the Cyber Center to develop an incident response plan for data breaches affecting governmental entities;
(f) coordinate with the state archivist to:
(i) incorporate data privacy practices into records management; and
(ii) include data privacy content in the trainings described in Section 63A-12-110; and
(g) develop, maintain, and make available data privacy training, education, and awareness materials that meet the requirements of Section 63A-19-401.2.
(4) The office may:
(a) provide expertise and assistance to governmental entities for high-risk data processing activities;
(b) create assessment tools and resources that a governmental entity may use to:
(i) review, evaluate, and mature the governmental entity's privacy program, practices, and processing activities; and
(ii) evaluate the privacy impact, privacy risk, and privacy compliance of the governmental entity's privacy program, practices, and processing activities;
(c) charge a governmental entity a service fee, established in accordance with Section 63J-1-504, for providing services that enable a governmental entity to perform the governmental entity's duties under Section 63A-19-401, if the governmental entity requests the office provide those services;
(d) bill a state agency, as provided in Section 63J-1-410, for any services the office provides to a state agency;
(e) provide funding to assist a governmental entity in complying with:
(i) this chapter; and
(ii) Title 63G, Chapter 2, Part 3, Classification, and Title 63G, Chapter 2, Part 6, Collection of Information and Accuracy of Records;
(f) advise the governing board about widespread or systemic data privacy matters or alleged violations;

(g) work with the Division of Purchasing and General Services to develop cooperative contracts that a governmental entity may choose to use to support the governmental entity's data privacy compliance;
(h) make available to governmental entities privacy compliance assessment tools that may be used by governmental entities to assess the governmental entity's reasonable compliance of processing activities described in this chapter;
(i) upon request of a governmental entity or on the office's own initiative, issue guidance or recommendations regarding:
(i) compliance with this chapter; and
(ii) best practices for data privacy and data governance;
(j) contract with an institute, component, or department at a state institution of higher education to support the office in:
(i) conducting research and prepare reports regarding data privacy and data governance;
(ii) providing support to the commission;
(iii) holding data governance summits and educational programs;
(iv) developing systems and tools to support data privacy and data governance; and
(v) providing other services in support of the office's duties under this chapter;
(k) create data governance models that may be used by governmental entities; and
(l) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer this chapter.
(5)
(a) Upon application by a governmental entity, the office may grant, for a limited period of time, a governmental entity with an:
(i) extension of time to comply with certain requirements of Part 4, Duties of Governmental Entities; or
(ii) exemption from complying with certain requirements of Part 4, Duties of Governmental Entities.
(b) On the office's own initiative, the office may issue a one-time extension to a category or group of governmental entities to comply with certain requirements of Part 4, Duties of Governmental Entities.
(c) An extension issued under Subsection (5)(b):
(i) shall:
(A) identify the specific duty for which the extension is granted and the section that imposes the duty; and
(B) specify the category or group of governmental entities to which the extension applies; and
(ii) may not be longer than 12 months.
(d) An application for an extension or exemption submitted under Subsection (5)(a) shall:
(i) identify the specific duty from which the governmental entity seeks an extension or exemption and the section that imposes that duty; and
(ii) include a justification for the requested extension or exemption.
(e) If the office grants an exemption under Subsection (5)(a), the office shall report at the next board meeting:
(i) the name of the governmental entity that received an exemption; and
(ii) the nature of the exemption.

Amended by Chapter 202, 2026 General Session

63A-19-302 Chief privacy officer -- Appointment -- Powers -- Reporting.

(1) The governor shall, with the advice and consent of the Senate, appoint a chief privacy officer.
(2) The chief privacy officer is the director of the office.
(3) The chief privacy officer:
  (a) shall exercise all powers given to and perform all duties imposed on the office;
  (b) has administrative authority over the office;
  (c) may make changes in office personnel and service functions under the chief privacy officer's administrative authority;
  (d) may authorize a designee to assist with the chief privacy officer's responsibilities; and
  (e) shall report annually, on or before June 30, to the Government Operations Interim Committee regarding:
    (i) recommendations for legislation to address data privacy concerns; and
    (ii) reports received from state agencies regarding the sale or sharing of personal data provided under Section 63A-19-401.3.

Amended by Chapter 202, 2026 General Session

Part 4
Duties of Governmental Entities

63A-19-401 Duties of governmental entities.
(1)
  (a) Except as provided in Subsections (1)(b) and (c), a governmental entity shall comply with the requirements of this part.
  (b) If a more specific or more restrictive law governs the treatment of a type of personal data, the more specific or more restrictive law shall control.
  (c) A governmental entity that is exempt under Section 63G-2-702, 63G-2-703, or 63G-2-704 from complying with the requirements in Title 63G, Chapter 2, Part 6, Collection of Information and Accuracy of Records, is exempt from complying with the requirements in this chapter.
(2)
  (a) A governmental entity shall:
    (i) initiate a data privacy program before December 31, 2025;
    (ii) obtain and process only the minimum amount of personal data reasonably necessary to efficiently achieve a specified purpose;
    (iii) meet the requirements of this part for all new processing activities implemented by a governmental entity; and
    (iv) for any processing activity implemented before May 7, 2025, as soon as is reasonably practicable, but no later than July 1, 2027:
      (A) identify any non-compliant processing activity;
      (B) prepare a strategy for bringing the non-compliant processing activity into compliance with this part; and
      (C) include the information described in Subsections (2)(a)(iv)(A) and (B) in the privacy program report described in Section 63A-19-401.3.
  (b) A governmental entity that fulfills the reporting requirement under Section 63A-19-401.3 satisfies the requirement to initiate a privacy program under Subsection (2)(a)(i).
(3) A governmental entity may not:

(a) establish, maintain, or use undisclosed or covert surveillance of individuals unless permitted by law;
(b) sell personal data unless expressly required by law; and
(c) share personal data unless permitted by law.

Amended by Chapter 202, 2026 General Session

63A-19-401.1 Privacy annotations.

(1)
(a) Beginning July 1, 2027, a state agency shall make a complete and accurate privacy annotation for each record series containing personal data that the state agency collects, maintains, or uses.
(b) After July 1, 2027, a state agency that has not completed a privacy annotation for a record series containing personal data, may not collect, maintain, or use the personal data in the record series.

(2) If a state agency determines that a record series:
(a) does not contain personal data, the privacy annotation shall be limited to a statement indicating that the record series does not include personal data; or
(b) contains personal data, the privacy annotation shall include:
(i) an inventory of all types of personal data included in the record series;
(ii) a description of all purposes for which the state agency collects, keeps, or uses the personal data;
(iii) a citation to the state agency's legal authority for collecting, keeping, or using the personal data; and
(iv) any other information required by the rules created by the office under Section 63A-19-301.

Amended by Chapter 202, 2026 General Session

63A-19-401.2 Training requirements.

(1) An employee of a governmental entity shall complete data privacy training that includes instruction on:
(a) data privacy best practices, obligations, and responsibilities;
(b) the relationship between privacy, records management, and security;
(c) the privacy interests and requirements of this chapter; and
(d) as applicable, the privacy interests and requirements of Title 63G, Chapter 2, Government Records Access and Management Act.

(2) An employee of a governmental entity shall complete the data privacy training described in Subsection (1) if the employee:
(a) has access to personal data as part of the employee's assigned duties; or
(b) supervises an employee who has access to personal data.

(3) The training described in Subsection (1) shall be completed:
(a) within 30 days after the day on which the employee begins employment with a governmental entity; and
(b) at least once in each calendar year.

(4) A governmental entity shall:
(a) ensure that each employee described in Subsection (2) completes a data privacy training that meets the requirements described in Subsection (1); and

(b) report the percentage of the governmental entity's employees required to complete the data privacy training under this section that have completed the training as part of the privacy program report described in Section 63A-19-401.3.

(5) A governmental entity may use the data privacy training created by the office to satisfy the requirements of this section, or may provide separate data privacy training that meets the requirements of this section.

Amended by Chapter 202, 2026 General Session

63A-19-401.3 Privacy program report.

(1) On or before December 31 of each year, the chief administrative officer of each governmental entity shall prepare a report that includes:

(a) how the governmental entity has initiated the governmental entity's privacy program;

(b) a description of:

(i) the governmental entity's privacy program including privacy practices;

(ii) strategies for improving and maturing the governmental entity's privacy program and practices; and

(iii) the governmental entity's high-risk processing activities;

(c) a list of the types of personal data the governmental entity currently shares, sells, or purchases;

(d) the legal basis for sharing, selling, or purchasing personal data;

(e) the category of individuals or entities:

(i) with whom the governmental entity shares personal data;

(ii) to whom the governmental entity sells personal data; or

(iii) from whom the governmental entity purchases personal data;

(f) the percentage of the governmental entity's employees required to complete the data privacy training under Section 63A-19-401.2 that have completed the training; and

(g) a description of any non-compliant processing activities identified under Subsection 63A-19-401(2)(a)(iv) and the governmental entity's strategy for bringing those activities into compliance with this part.

(2) The report described in Subsection (1) shall be:

(a) considered a protected record under Section 63G-2-305;

(b) shared with the office, in accordance with Section 63G-2-206, on or before December 31 each year; and

(c) retained by the governmental entity for no less than five years.

Amended by Chapter 202, 2026 General Session

63A-19-401.4 Requirements for contractors.

(1) Except as provided in Subsection (4), a contractor that processes or has access to personal data as a part of the contractor's duties under a contract with a governmental entity is subject to the requirements of this chapter to the same extent as the governmental entity for any personal data the contractor processes or has access to under a contract with the governmental entity.

(2) A contract entered into or renewed between a contractor and a governmental entity after July 1, 2027, shall contain specific language that requires a contractor to comply with the requirements of this chapter with regard to the personal data processed or accessed by the contractor as a part of the contractor's duties under a contract to the same extent as required of the governmental entity.

(3) The requirements under this section are in addition to and do not replace any other requirements or liability that may be imposed for the contractor's violation of other laws protecting privacy rights or government records.
(4) A contractor is not subject to the data privacy training program requirements described in Section 63A-19-401.2.

Amended by Chapter 202, 2026 General Session

63A-19-402 Personal data collection -- Privacy notice.
(1) A governmental entity shall provide a privacy notice to an individual, or the legal guardian of an individual, from whom the governmental entity requests or collects personal data.
(2) If the personal data collected by a governmental entity:
  (a) would be classified as a public record under Section 63G-2-301, the privacy notice shall be limited to a statement indicating that the individual's personal data may be available to the public as provided by Section 63G-2-201; and
  (b) would not be classified as a public record under Section 63G-2-301, the privacy notice shall describe:
    (i) all intended purposes and uses of the personal data;
    (ii) the consequences for refusing to provide the personal data;
    (iii) the classes of persons and governmental entities:
      (A) with whom the governmental entity shares personal data; or
      (B) to whom the governmental entity sells personal data; and
    (iv) the record series in which the personal data is included.
(3) The governmental entity shall provide the privacy notice by:
  (a) posting the privacy notice in a prominent place where the governmental entity collects the personal data;
  (b) including the privacy notice as part of any document or form used by the governmental entity to collect the personal data; or
  (c) including as part of any document or form used by the governmental entity to collect personal data, a conspicuous link or QR code that links to an electronic version of the privacy notice.
(4) The privacy notice required by this section is in addition to, and does not supersede, any other notice requirement otherwise applicable to the governmental entity.
(5)
  (a) Notwithstanding Subsections (1) through (4), a governmental entity may provide the privacy notice required under this section by posting the privacy notice on the governmental entity's government website, or on the public notice website if the governmental entity does not have a government website, when the privacy notice relates to processing activities that:
    (i) serve a public safety interest; and
    (ii) produce a public benefit that is greater than or equal to the potential impact on an individual's privacy interest that the privacy notice protects.
  (b) The processing activities related to public safety described in Subsection (5)(a) may include:
    (i) the provision of emergency services;
    (ii) law enforcement body or dash camera recordings;
    (iii) security camera monitoring;
    (iv) ambulance and emergency medical services; and
    (v) 911 emergency communications.
(6) The governmental entity shall, upon request, provide the privacy notice to an individual, or the legal guardian of an individual, regarding personal data previously furnished by that individual.

(7) The governmental entity may only use personal data furnished by an individual for the purposes identified in the privacy notice provided to that individual.

Amended by Chapter 475, 2025 General Session

63A-19-402.5 Website privacy notice.

(1) A governmental entity's government website shall include notice to a user of:
  (a) the identity of the governmental entity responsible for the government website;
  (b) how to contact the governmental entity that is responsible for the government website;
  (c) the method by which a user may:
    (i) seek access to the user's personal data or user data;
    (ii) request to correct or amend the user's personal data or user data; and
    (iii) file a complaint with the data privacy ombudsperson; and
  (d) how an at-risk employee may request that the at-risk employee's personal information be classified as a private record under Section 63G-2-302.
(2) In addition to the website privacy notice requirement described in Subsection (1)(a), a government website that collects user data shall include in the website privacy notice the following information:
  (a) any website tracking technology that is used to collect user data on the government website;
  (b) what user data is collected by the government website;
  (c) all intended purposes and uses of the user data;
  (d) the classes of persons and governmental entities:
    (i) with whom the governmental entity shares user data; or
    (ii) to whom the governmental entity sells user data; and
  (e) the record series in which the user data is included.
(3) A notice described in Subsection (1) or (2) shall be provided by prominently posting on the homepage of the government website:
  (a) the notice; or
  (b) a link to a separate webpage containing the notice.
(4) A governmental entity may not collect user data on a government website unless the governmental entity has complied with the requirements in this section.

Enacted by Chapter 475, 2025 General Session

63A-19-403 Procedure to request amendment or correction of personal data.

(1) A governmental entity that collects personal data shall provide a procedure by which an individual or legal guardian of an individual may request an amendment or correction of:
  (a) personal data that has been furnished to the governmental entity; and
  (b) information concerning an identifiable individual contained in a record maintained by the governmental entity, as allowed by law.
(2) The procedure by which an individual or legal guardian of an individual may request an amendment or correction shall comply with all applicable laws and regulations to which the personal data or information at issue and to which the governmental entity is subject.
(3) The procedure to request an amendment or correction described in this section does not obligate the governmental entity to make the requested amendment or correction.

Amended by Chapter 202, 2026 General Session

63A-19-404 Retention and disposition of personal data.

(1) A governmental entity that collects personal data shall retain and dispose of the personal data in accordance with a documented record retention schedule.

(2) Compliance with Subsection (1) does not exempt a governmental entity from complying with other applicable laws or regulations related to retention or disposition of specific personal data held by that governmental entity.

Enacted by Chapter 417, 2024 General Session

63A-19-405 Data breach notification to the Cyber Center and the Office of the Attorney General.

(1)

(a) A governmental entity that identifies a data breach affecting 500 or more individuals shall notify the Cyber Center and the attorney general of the data breach.

(b) In addition to the notification required by Subsection (1)(a), a governmental entity that identifies the unauthorized access, acquisition, disclosure, loss of access, or destruction of data that compromises the security, confidentiality, availability, or integrity of the computer systems used or information maintained by the governmental entity shall provide notification to the Cyber Center in accordance with Section 63A-16-1103.

(c) A governmental entity that identifies the unauthorized access, unauthorized acquisition, unauthorized disclosure, loss of access, or unauthorized destruction of personal data that is used or is reasonably likely to be used to commit theft, fraud, or other criminal acts shall provide notification of the breach to:

(i) each individual whose personal data is involved in the breach; and

(ii) the attorney general.

(2) The notification under Subsection (1) shall:

(a) be made without unreasonable delay, but no later than five days from the discovery of the data breach; and

(b) include the following information:

(i) the date and time the data breach occurred;

(ii) the date the data breach was discovered;

(iii) a short description of the data breach that occurred;

(iv) the means by which access was gained to the system, computer, or network;

(v) the person who perpetrated the data breach;

(vi) steps the governmental entity is or has taken to mitigate the impact of the data breach; and

(vii) any other details requested by the Cyber Center.

(3) For a data breach described in Subsection (1)(a), the governmental entity shall provide the following information to the Cyber Center and the attorney general in addition to the information required under Subsection (2)(b):

(a) the total number of individuals affected by the data breach, including the total number of Utah residents affected; and

(b) the type of personal data involved in the data breach.

(4) If the information required by Subsections (2)(b) and (3) is not available within five days of discovering the breach, the governmental entity shall provide as much of the information required under Subsections (2)(b) and (3) as is available and supplement the notification with additional information as soon as the information becomes available.

(5)

(a) A governmental entity that experiences a data breach affecting fewer than 500 individuals shall create an internal incident report containing the information in Subsection (2)(b) as soon as practicable and shall provide additional information as the information becomes available.
(b) A governmental entity shall provide to the Cyber Center:
(i) an internal incident report described in Subsection (5)(a) upon request of the Cyber Center; and
(ii) an annual report logging all of the governmental entity's data breach incidents affecting fewer than 500 individuals.

Amended by Chapter 202, 2026 General Session

63A-19-406 Data breach notice to individuals affected by data breach.

(1)
(a) Except as provided in Subsection (1)(b), a governmental entity shall provide cause a data breach notice to be sent to an individual or legal guardian of an individual affected by the data breach:
(i) after determining the scope of the data breach;
(ii) after restoring the reasonable integrity of the affected system, if necessary; and
(iii) without unreasonable delay except as provided in Subsection (2).
(b) A governmental entity or the governmental entity's contractor is not required to provide a data breach notice to an affected individual as described in Subsection (1)(a) if the:
(i) personal data involved in the data breach would be classified as a public record under Section 63G-2-301; and
(ii) the governmental entity prominently posts notice of the data breach on the homepage of the governmental entity's government website.
(2) A governmental entity or the governmental entity's contractor shall delay providing notification under Subsection (1) at the request of a law enforcement agency that determines that notification may impede a criminal investigation, until the law enforcement agency informs the governmental entity that notification will no longer impede the criminal investigation.
(3) The data breach notice to an affected individual shall include:
(a) a description of the data breach;
(b) the individual's personal data that was accessed or may have been accessed;
(c) steps the governmental entity is taking or has taken to mitigate the impact of the data breach; and
(d) recommendations to the individual on how to protect the individual from identity theft and other financial losses.
(4) Unless the governmental entity reasonably believes that providing notification would pose a threat to the safety of an individual, or unless an individual has designated to the governmental entity a preferred method of communication, a governmental entity or the governmental entity's contractor shall provide notice by:
(a)
(i) email, if reasonably available and allowed by law; or
(ii) mail; and
(b) one of the following methods, if the individual's contact information is reasonably available and the method is allowed by law:
(i) text message with a summary of the data breach notice and instructions for accessing the full notice; or

(ii) telephone message with a summary of the data breach notice and instructions for accessing the full data breach notice.

(5) A governmental entity shall also provide a data breach notice in a manner that is reasonably calculated to have the best chance of being received by the affected individual or the legal guardian of an individual, such as through a press release, posting on appropriate social media accounts, or publishing notice in a newspaper of general circulation when:

(a) a data breach affects more than 500 individuals; and

(b) a governmental entity is unable to obtain an individual's contact information to provide notice for any method listed in Subsection (4).

Amended by Chapter 202, 2026 General Session

63A-19-407 Technology transparency study -- Report to Legislature.

(1) The office and the commission shall jointly study the implementation of processing activities for which an individual's personal data may be collected without the ability to provide direct notice:

(a) the public safety benefits and legitimate governmental purposes served by the processing activities described in this Subsection (1);

(b) the privacy implications of the processing activities described in this Subsection (1); and

(c) appropriate frameworks for governing the processing activities described in this Subsection (1) by governmental entities.

(2) In conducting the study described in Subsection (1), the office and the commission shall solicit input from:

(a) state and local law enforcement agencies;

(b) civil liberties organizations;

(c) governmental entities that use or are considering the use of data collection technology; and

(d) other interested stakeholders.

(3) On or before the November 2027 interim meeting, the office shall report the findings and recommendations of the study described in Subsection (2) to the Government Operations Interim Committee, including any recommended legislation.

Enacted by Chapter 202, 2026 General Session

63A-19-408 Private information concerning certain government employees.

(1) As used in this section:

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

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

(ii) state or federal judge of an appellate, district, justice, or juvenile court, or court commissioner;

(iii) judge authorized by Title 39A, Chapter 5, Utah Code of Military Justice;

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

(v) federal prosecutor;

(vi) prosecutor appointed pursuant to Armed Forces, Title 10, United States Code;

(vii) law enforcement official as defined in Section 53-5a-311;

(viii) prosecutor authorized by Title 39A, Chapter 5, Utah Code of Military Justice; or

(ix) state, federal, or local government employee who, because of the unique nature of the employee's regular work assignments or because of one or more recent credible threats directed to or against the employee, would be at immediate and substantial risk of physical harm if the employee's personal information is disclosed.

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

(c) "Personal information" means the employee's or the employee's family member's home address, home telephone number, personal mobile telephone number, personal pager number, personal email address, social security number, insurance coverage, marital status, or payroll deductions.

(2)

(a) Pursuant to Subsection 63G-2-302(1)(h), an at-risk government employee may file a written application that:

(i) gives notice of the employee's status as an at-risk government employee to each agency of a government entity holding a record or a part of a record that would disclose the employee's personal information; and

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

(b) An at-risk government employee desiring to file an application under this section may request assistance from the government agency to identify the individual records containing personal information.

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

(i) requires the at-risk government employee to designate each specific record or part of a record containing the employee's personal information that the applicant desires to be classified as private;

(ii) affirmatively requests that the government entity holding those records classify them as private;

(iii) informs the employee that by submitting a completed form the employee may not receive official announcements affecting the employee's property, including notices about proposed municipal annexations, incorporations, or zoning modifications; and

(iv) contains a place for the signature required under Subsection (2)(d).

(d) A form submitted by an employee under Subsection (2)(c) shall be signed by the highest ranking elected or appointed official in the employee's chain of command certifying that the employee submitting the form is an at-risk government employee.

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

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

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

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

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

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

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

(5)

(a) If the government agency holding the private record receives a subpoena for the records, the government agency shall attempt to notify the at-risk government employee or former

employee by mailing a copy of the subpoena to the employee's last-known mailing address together with a request that the employee either:

(i) authorize release of the record; or

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

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

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

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

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

(6)

(a) Except as provided in Subsection (6)(b), a form submitted under this section remains in effect until the earlier of:

(i) four years after the date the employee signs the form, whether or not the employee's employment terminates before the end of the four-year period; and

(ii) one year after the government agency receives official notice of the death of the employee.

(b) A form submitted under this section may be rescinded at any time by:

(i) the at-risk government employee who submitted the form; or

(ii) if the at-risk government employee is deceased, a member of the employee's immediate family.

Renumbered and Amended by Chapter 202, 2026 General Session

Part 5
Data Privacy Ombudsperson

63A-19-501 Data privacy ombudsperson.

(1) There is created within the office the position of data privacy ombudsperson.

(2) The governor shall appoint the ombudsperson with the advice of the governing board.

(3) The ombudsperson shall:

(a) be an attorney in good standing and authorized to practice law in this state;

(b) be familiar with the provisions of:

(i) this chapter;

(ii) Chapter 12, Division of Archives and Records Service and Management of Government Records;

(iii) Chapter 20, State-Endorsed Digital Identity; and

(iv) Title 63G, Chapter 2, Government Records Access and Management Act; and

(c) serve as a resource for:

(i) an individual who is making a data privacy complaint; and

(ii) a governmental entity that is the subject of a data privacy complaint.

(4) The ombudsperson may:

(a)

(i) upon request by a governmental entity or individual, mediate a dispute between the governmental entity and the individual regarding the individual's data privacy complaint; and

(ii) upon resolution of a data privacy complaint described in Subsection (4)(a)(i), post on the office's website a brief summary of the data privacy complaint and the resolution of the matter; and

(b) provide data privacy education and training in accordance with Subsection 63A-19-301(3)(g).

(5) The ombudsperson may not:

(a) mediate a dispute between a governmental entity and an individual if the individual's data privacy complaint is within the authority of:

(i) the Government Records Office created in Section 63A-12-202; or

(ii) the government records ombudsman established in Section 63A-12-204;

(b) expand the scope of a mediation beyond the individual's data privacy complaint;

(c) testify, or be compelled to testify, regarding a matter for which the ombudsperson provides services under this section; or

(d) conduct an audit of a governmental entity's privacy practices.

(6) After consultation with the chief privacy officer, the ombudsperson may raise matters and questions to the governing board.

(7) The ombudsperson may receive and review complaints regarding alleged violations of Chapter 20, State-Endorsed Digital Identity, by private sector entities, and may refer such complaints to the attorney general for enforcement in accordance with Section 63A-20-801.

Amended by Chapter 202, 2026 General Session

63A-19-502 Data privacy complaint process.

(1) An individual who makes a data privacy complaint shall first submit the complaint to the chief administrative officer of the governmental entity that is the subject of the complaint.

(2) Upon receipt of a data privacy complaint under Subsection (1), the chief administrative officer shall attempt to resolve the complaint with the individual.

(3) If the chief administrative officer is unable to resolve a data privacy complaint with the individual under Subsection (2), the individual or the governmental entity may request mediation with the ombudsperson in accordance with Section 63A-19-501.

(4) If an individual submits a data privacy complaint directly to the ombudsperson, the ombudsperson shall:

(a) notify the individual and the governmental entity that the complaint will be referred to the chief administrative officer of the governmental entity; and

(b) refer the complaint to the chief administrative officer.

(5) This section does not apply to a complaint about data privacy that is within the authority of:

(a) the Government Records Office created in Section 63A-12-202; or

(b) the government records ombudsman established in Section 63A-12-204.

(6) An employee of a governmental entity may submit a confidential and anonymous data privacy complaint directly to the attorney general.

(7) An employee of a governmental entity who submits a complaint under Subsection (6) is entitled to the protections described in Title 67, Chapter 21, Utah Protection of Public Employees Act.

Enacted by Chapter 202, 2026 General Session

Part 6
Remedies

63A-19-601 Enforcement.

(1) Upon instruction by the board, the state auditor shall:
(a) investigate alleged violations of this chapter by a governmental entity;
(b) provide notice to the relevant governmental entity of an alleged violation of this chapter; and
(c) for a violation that the state auditor substantiates, provide an opportunity for the governmental entity to cure the violation within 30 days.
(2) If a governmental entity fails to cure a violation as provided in Subsection (1)(c), the state auditor shall report the governmental entity's failure:
(a) for a governmental entity that is not a state agency, to the attorney general for enforcement under Subsection (3); and
(b) for a state agency, to the Legislative Management Committee.
(3) After referral by the state auditor under Subsection (2)(a), the attorney general may file an action in district court to:
(a) enjoin a governmental entity that is not a state agency from violating this chapter; or
(b) require a governmental entity that is not a state agency to comply with this chapter.

Amended by Chapter 475, 2025 General Session

63A-19-602 Disciplinary action.

A governmental entity may take disciplinary action, which may include suspension or discharge, against any employee of the governmental entity who intentionally violates any provision of this chapter.

Enacted by Chapter 475, 2025 General Session

Chapter 20
State-Endorsed Digital Identity

Part 1
Digital Identity Bill Of Rights

63A-20-101 Digital identity bill of rights.

The following rights constitute the digital identity bill of rights in this state:
(1) An individual possesses an individual identity innate to the individual's existence and independent of the state, which identity is fundamental and inalienable.
(2) An individual has a right to the management and control of the individual's digital identity to protect individual privacy.
(3) An individual has a right to choose, receive, and use a physical form of identity assertion that is endorsed by the state.
(4) An individual has a right to not be compelled by the state to possess, use, or rely upon a digital form of identity assertion in place of a physical form of identity assertion that is endorsed by the state.

(5) An individual has a right to state endorsement of the individual's digital identity upon meeting objective, uniform standards for eligibility and verification established by law, and a right to not have such endorsement arbitrarily or discriminatorily withheld or revoked.
(6) An individual has a right to have the state's operation of digital identity systems governed by clear standards established by the Legislature, including for eligibility, issuance, endorsement, acceptance, revocation, or interoperability of digital identity assertions.
(7) An individual has a right to transparency in the design and operation of a state digital identity, including the right to access, read, and review the standards and technical specifications upon which the state digital identity is built and operates.
(8) An individual has the right to choose what identity attributes are disclosed by the individual's state digital identity in accordance with standards established by the Legislature.
(9) An individual has the right to any service or benefit to which the individual is otherwise lawfully entitled based on the individual's choice of a lawful format or means of identity assertion without denial, diminishment, or condition.
(10) An individual has a right to be free from surveillance, profiling, tracking, or persistent monitoring of the individual's assertions of digital identity by the state, except as authorized by law.
(11) An individual has a right to not be required by the state to surrender the individual's device in order to present the individual's digital identity.

Enacted by Chapter 436, 2026 General Session

Part 2
Definitions And Program Creation

63A-20-201 Definitions.

As used in this chapter:

(1) "Cross-context correlation" means the ability of a person to link, associate, or infer that the presentation of a state-endorsed digital identity originating with the same or another person relates to the same individual.
(2) "Data privacy ombudsperson" means the data privacy ombudsperson created in Section 63A-19-501.
(3)
  (a) "Digital guardian" means a person authorized to act in the best interest and on behalf of another individual.
  (b) "Digital guardian" includes a:
    (i) representative designated by the individual as described in the rules made by the department;
    (ii) custodial parent of an unemancipated minor;
    (iii) legal guardian of a minor appointed under Section 75-5-202; or
    (iv) legal guardian of an incapacitated individual appointed under Section 75-5-301.
(4)
  (a) "Digital identity" means an electronic record that:
    (i) an individual may use to assert an individual's identity or identity attributes; and
    (ii) can be mathematically verified.

(b) "Digital identity" does not include an electronic record that only relies on shared authentication information to verify an individual's identity, including a username, password, personal identification number, or one-time code.

(5) "Digital wallet" means an application, hardware device, software, or service that securely stores, organizes, and manages a state digital identity.

(6) "Digital wallet provider" means a person that creates, develops, maintains, supports, and makes available a digital wallet for a state digital identity.

(7) "Governmental entity" means the same as that term is defined in Section 63A-19-101.

(8) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(9) "Holder" means:

(a) an individual whose identity attributes are contained in the state digital identity; or

(b) a digital guardian who manages and presents a state digital identity on behalf of the individual.

(10) "Identity" means the qualities, features, or characteristics that identify or distinguish an individual.

(11) "Identity attribute" means a specific quality, characteristic, fact, or information related to an individual's identity.

(12) "Identity proofing" means the process of collecting, validating, and verifying information about an individual to establish confidence in the individual's claimed identity.

(13) "Identity proofing entity" means an entity authorized by the department to conduct identity proofing for the purpose of issuing a state-endorsed digital identity.

(14) "Individual" means a human being.

(15) "Minor" means an individual who is under 18 years old.

(16) "Offline presentation" means a presentation that does not involve the internet.

(17) "Online presentation" means a presentation that utilizes the internet or other computer network.

(18) "Parent" means an individual who has established a parent-child relationship with a child as described in Section 81-5-201.

(19) "Person" means an individual, corporation, organization, association, governmental entity, or other legal entity.

(20) "Personal digital identifier" means an identifier that is:

(a) unique;

(b) created by or at the direction of an individual;

(c) mathematically provable to be under a holder's control; and

(d) transportable to technical infrastructure of the holder's choosing.

(21) "Physical identity" means a physical record that an individual may use to assert the individual's identity issued by:

(a) a governmental entity;

(b) the equivalent of a governmental entity in another state;

(c) the federal government; or

(d) another country.

(22) "Presentation" means the disclosure of an individual's identity attributes from the individual's state digital identity to a verifier or relying party.

(23) "Process" means any operation or set of operations performed on an individual's identity attributes.

(24) "Program" means the state-endorsed digital identity program described in Section 63A-20-202.

(25) "Program manager" means the individual appointed under Section 63A-20-203.

(26) "Relying party" means a person that relies on a verifier's assertion of an individual's identity or identity attribute that a state digital identity provides.
(27) "Secure electronic device" means a device capable of securely storing, presenting, or displaying a state-endorsed digital identity, including physical tokens and accessible devices.
(28) "State digital identity" means:
(a) a state-endorsed digital identity; or
(b) an electronic license certificate or identification card issued in accordance with Section 53-3-235.
(29) "State-endorsed digital identity" means an individual's digital identity that:
(a) includes a personal digital identifier; and
(b) the department has issued.
(30) "Verifier" means a person that mathematically verifies a state digital identity to evaluate the state digital identity's authenticity and integrity.

Enacted by Chapter 436, 2026 General Session

63A-20-202 Digital identity program -- Creation -- Duties.
(1) There is created within the department the State-Endorsed Digital Identity Program.
(2) The department shall design, implement, administer, and issue a state-endorsed digital identity in compliance with the requirements in Part 3, State-Endorsed Digital Identity.
(3)
(a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to:
(i) administer this chapter;
(ii) establish technological standards and best practices for governmental entities regarding:
(A) the creation, issuance, use, and acceptance of a state-endorsed digital identity; and
(B) the collection, processing, storage, and disclosure of individual identity or identity attributes; and
(iii) establish procedures for an individual to:
(A) apply for a state-endorsed digital identity; and
(B) designate a digital guardian.
(b) The department shall:
(i) accept public comment for a period of 45 days from the day the proposed rule is published in the Utah State Bulletin as described in Section 63G-3-301; and
(ii) issue a response to substantive comments submitted by the public before making the proposed rule effective.
(4) In furtherance of these duties the department may consult with:
(a) governmental entities;
(b) government entities in other states;
(c) technology experts; or
(d) organizations that establish technology standards.
(5) The department may:
(a) establish fees in accordance with Section 63J-1-504 for issuing, renewing, or replacing a state-endorsed digital identity; or
(b) apply for, accept, allocate, and administer grants, funds, or awards from any public or private source for the purpose of implementing this chapter.
(6) Beginning on January 1, 2027, the department shall annually report before June 1 to the Economic Development and Workforce Services Interim Committee regarding:

(a) program implementation and adoption metrics;
(b) security incidents and remediation steps taken in response;
(c) comments submitted to the program by the public;
(d) changes made to the program as a result of comments submitted by the public;
(e) vendor ecosystem status, including number of conformant digital wallets and verifier tools;
(f) findings and recommendations from the coordination activities described in Section 63A-20-204; and
(g) any recommended statutory changes.

Enacted by Chapter 436, 2026 General Session

63A-20-203 Program manager -- Appointment -- Duties.

(1) The executive director, with the approval of the governor, shall appoint an individual to manage the program.
(2) The program manager shall be experienced in:
(a) government administration;
(b) data privacy;
(c) cybersecurity; and
(d) information technology.
(3) The program manager is responsible for implementing a state-endorsed digital identity in accordance with this chapter.

Enacted by Chapter 436, 2026 General Session

63A-20-204 Coordination on use cases -- Report.

(1) The department shall coordinate with the following agencies to evaluate mechanisms by which a state-endorsed digital identity may be accepted and verified in the performance of their statutory duties or authorized functions:
(a) the Department of Alcoholic Beverage Services;
(b) the Driver License Division;
(c) the Department of Health and Human Services;
(d) the State Board of Education; and
(e) state and local law enforcement agencies.
(2) The coordination described in Subsection (1) shall include evaluation and development of use cases for:
(a) age verification for the purchase of alcoholic products under Title 32B;
(b) student enrollment and related identity verification within public education systems;
(c) identity verification by law enforcement officers during lawful encounters; and
(d) identity verification by Utah financial institutions consistent with applicable state and federal law.
(3) In performing the duties described in this section, the department shall:
(a) identify operational, technical, privacy, and legal requirements necessary to enable secure and reliable acceptance and verification of a state-endorsed digital identity;
(b) develop standards and guidance to support consistent implementation; and
(c) identify any statutory, rule, or policy changes necessary to facilitate integration and acceptance.
(4) The department shall include its findings and recommendations under this section in the annual report described in Subsection 63A-20-202(6).

Enacted by Chapter 436, 2026 General Session

Part 3
State-Endorsed Digital Identity

63A-20-301 State-endorsed digital identity requirements.

(1) A state-endorsed digital identity shall:
- (a) incorporate state-of-the-art safeguards for protecting an individual's identity, including compromise detection, recovery mechanisms, and cross-context correlation protections;
- (b) include methods to establish authenticity and integrity;
- (c) be compatible with a wide variety of technological systems while maintaining strong privacy and security;
- (d) support online and offline presentation;
- (e) enable a holder to:
  - (i) selectively disclose an individual's identity attributes; or
  - (ii) demonstrate that the individual meets a specified minimum age without disclosing the individual's age or birth date;
- (f) allow a holder to choose a digital wallet that conforms with the requirements established by the department; and
- (g) be easy for a holder to adopt and use.

(2) The department shall:
- (a) validate verification of an individual's identity provided by an identity proofing entity;
- (b) comply with the requirements of this chapter through technological means where possible;
- (c) ensure any technical infrastructure used to control the issuance or revocation of a state-endorsed digital identity is maintained within a state-controlled data center located within the state;
- (d) ensure that a state-controlled data center located within the state shall use best practices in collection, processing, storage, and disclosure of all individual identity and identity attributes;
- (e) select open technological standards for the creation, issuance, use, and acceptance of a state-endorsed digital identity that are:
  - (i) publicly available; and
  - (ii) free from:
    - (A) licensing fees; and
    - (B) patent restrictions;
- (f) verify and endorse a specific set of identity attributes including an individual's:
  - (i) name;
  - (ii) birth date;
  - (iii) image; and
  - (iv) Utah residence address; and
- (g) create a process for:
  - (i) a holder to:
    - (A) obtain, maintain, and control an individual's state-endorsed digital identity;
    - (B) use an individual's state-endorsed digital identity;
    - (C) limit access to an individual's state-endorsed digital identity and identity attributes;

(D) obtain a new state-endorsed digital identity if the individual's state-endorsed digital identity is compromised; and
(E) migrate a state-endorsed digital identity to another digital wallet compliant with this chapter;
(ii) a holder to request that an individual's identity attributes be amended or corrected; and
(iii) appointment of a digital guardian to obtain or use a state-endorsed digital identity on an individual's behalf.
(3) A state-endorsed digital identity may not include a mechanism that allows the department to monitor, surveil, or track the presentation of a state-endorsed digital identity to another entity.
(4) Information provided by an individual to the state to obtain a state-endorsed digital identity may only be:
(a) used for the purpose of issuing and managing a state-endorsed digital identity;
(b) used as authorized by the individual;
(c) retained as long as necessary to issue and manage a state-endorsed digital identity;
(d) maintained within a state-controlled data center located within the state; or
(e) disclosed to:
(i) the subject of the record or the subject's digital guardian; or
(ii) a person with a warrant or court order.
(5) The department may only revoke an individual's state-endorsed digital identity if:
(a) the state-endorsed digital identity has been compromised;
(b) the department's endorsement was:
(i) issued in error; or
(ii) based on fraudulent information; or
(c) the holder requests that the department revoke the individual's state-endorsed digital identity.
(6) The department shall report a data breach regarding individual identity or identity attributes in accordance with Section 63A-19-405.

Enacted by Chapter 436, 2026 General Session

63A-20-302 Application and eligibility for state-endorsed digital identity.
(1) An individual who is at least 18 years old, or is an emancipated minor, may apply to the department for a state-endorsed digital identity.
(2) An individual who is under 18 years old, and is not an emancipated minor, may apply to the department for a state-endorsed digital identity only with the consent of the individual's digital guardian.
(3)
(a) If an individual is unable to apply for a state-endorsed digital identity due to the individual's youth or incapacitation, the application may be made on behalf of that individual by the individual's digital guardian.
(b) A digital guardian applying on behalf of a minor or incapacitated individual shall provide:
(i) identification, as required by the department; and
(ii) the consent of the incapacitated individual, as required by the department.
(4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing:
(a) the form and manner of an application under this section;
(b) identity proofing requirements and procedures; and
(c) procedures for denial, correction, reissuance, and compromise recovery consistent with this part.

(5) An individual is not required to apply for or obtain a state-endorsed digital identity.
(6) To apply for or receive a state-endorsed digital identity, an applicant shall:
(a) have lawful presence in the United States;
(b) be a resident of Utah; and
(c) successfully complete the department's identity proofing process established under this part.
(7)
(a) The department may not require collection of information that is not necessary to verify identity or eligibility.
(b) Required information may include, as determined by the department and documented by rule:
(i) the applicant's true and full legal name;
(ii) date of birth;
(iii) Utah residence address;
(iv) evidence of lawful presence in the United States;
(v) evidence of Utah residency; and
(vi) other information strictly necessary to complete identity proofing.

Enacted by Chapter 436, 2026 General Session

63A-20-303 Identity proofing.
(1)
(a) The department shall establish and maintain identity proofing requirements for the issuance of a state-endorsed digital identity that:
(i) follow a generally accepted identity proofing standard;
(ii) are commensurate with the risks of impersonation, fraud, and misuse associated with the credential; and
(iii) are consistent with the privacy, civil liberties, and security requirements of this chapter.
(b) The identity proofing process shall be designed to establish, at a minimum, that:
(i) the applicant is a real individual;
(ii) the applicant is the individual the applicant claims to be;
(iii) the applicant's birth date is the date the applicant claims it to be; and
(iv) the applicant meets the eligibility requirements of Section 63A-20-302.
(c) The department shall ensure that the identity proofing process results in a credential that provides a level of confidence in the individual's identity that is:
(i) sufficiently robust to support reliance by governmental entities and private-sector relying parties where required by law or policy for online age assurance; and
(ii) appropriate for use in both online and offline presentations.
(d) Identity proofing processes shall be designed so that the state's endorsement:
(i) reflects verification at a point in time; and
(ii) does not require:
(A) continuous monitoring; or
(B) tracking.
(2)
(a) An applicant shall provide true and accurate information as required under this part.
(b) Knowingly providing materially false information for the purpose of obtaining a state-endorsed digital identity constitutes fraud and may result in denial, revocation, and other remedies provided by law.
(3)

(a) Obtaining or holding a state-endorsed digital identity does not affect an individual's physical identity documents.
(b) An individual is not required to surrender, cancel, or replace any physical identity document as a condition of applying for or holding a state-endorsed digital identity.
(4)
(a) The department shall define by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the identity proofing standards and processes required for issuance of a state-endorsed digital identity.
(b) The rules shall, at a minimum:
(i) specify the objectives the identity proofing process is intended to achieve;
(ii) describe the acceptable methods of identity proofing, including:
(A) in-person, remote, or hybrid methods, and the conditions under which each may be used; and
(B) minimum evidence requirements and validation methods;
(iii) align with generally accepted identity proofing practices; and
(iv) establish requirements and a process to become an identity proofing entity.

Enacted by Chapter 436, 2026 General Session

63A-20-304 Requirements for governmental entities.
(1) A governmental entity may not:
(a) convey a material benefit upon an individual for using a state digital identity instead of a physical identity;
(b) withhold services or benefits from an individual if the individual uses a physical identity or is otherwise unable to use a state digital identity; or
(c) require a holder to surrender the holder's secure electronic device in the course of a presentation.
(2)
(a) A governmental entity that, on or after May 6, 2026, implements a new system that accepts a digital identity shall, within three months after the day on which the department issues the first state-endorsed digital identity, accept a state-endorsed digital identity.
(b) A governmental entity is not required to accept a state-endorsed digital identity within the time frame described in Subsection (2)(a) if the governmental entity:
(i)
(A) demonstrates to the satisfaction of the department that accepting a state-endorsed digital identity at that time is not technically feasible; and
(B) provides a plan for accepting a state-endorsed digital identity as soon as feasible; or
(ii) is required by law to only accept a specific form of state digital identity.

Enacted by Chapter 436, 2026 General Session

63A-20-305 Requirements for health care providers.
(1) Within two years from the date the first state-endorsed digital identity is issued, a health care provider that receives at least $10,000,000 a year in public funding shall accept a state-endorsed digital identity if the health care provider has a program or system that accepts a digital identity.
(2) A health care provider is not required to accept a state-endorsed digital identity within the time frame described in Subsection (1) if the health care provider:

(a)
(i) demonstrates to the satisfaction of the department that accepting a state-endorsed digital identity at that time is not technically feasible; and
(ii) provides a plan for accepting a state-endorsed digital identity as soon as feasible; or
(b) is required by law to only accept a specific form of state digital identity.

Enacted by Chapter 436, 2026 General Session

Part 4
Digital Wallet Providers

63A-20-401 Requirements for digital wallet providers.

(1) A digital wallet produced by a digital wallet provider shall:
(a) incorporate state-of-the-art safeguards for protecting an individual's identity;
(b) process an individual's identity attributes in a secure manner;
(c) comply with the requirements of this part through technological means where possible;
(d) be tamper resistant;
(e) support online and offline presentation of a state-endorsed digital identity;
(f) maintain a secure log:
(i) with sufficient information for the holder to know:
(A) what identity attributes were provided; and
(B) the verifier or relying party the identity attributes were provided to;
(ii) accessible only to the holder;
(iii) exportable only by the holder; and
(iv) deletable only by the holder;
(g) enable a holder to:
(i) selectively disclose an individual's identity attributes; or
(ii) demonstrate that the individual meets a specified minimum age without disclosing the individual's age or birth date; and
(h) allow a presentation of a state-endorsed digital identity by a digital guardian.
(2) A digital wallet provider may only process an individual's identity attributes from a state digital identity if:
(a) the processing is necessary for a presentation;
(b) the holder has received conspicuous notice of:
(i) what identity attributes are collected from the state digital identity;
(ii) how the identity attributes are used;
(iii) the purpose for which the identity attributes are processed; and
(iv) how long the identity attributes are retained; and
(c) the holder consents to the processing of the individual's identity attributes.
(3) Information provided by a holder to a digital wallet provider for the purpose of creating or using a digital identity may only be:
(a) processed for the primary purpose for which the holder disclosed the information; and
(b) used, retained, sold, or shared:
(i) as expressly authorized by the holder; or
(ii) if required by law.

(4) Nothing in this section relieves a digital wallet provider from complying with the requirements of Title 13, Chapter 44, Protection of Personal Information Act, or Title 13, Chapter 61, Utah Consumer Privacy Act.

Enacted by Chapter 436, 2026 General Session

Part 5
Verifiers

63A-20-501 Requirements for verifiers.

(1) A verifier shall:
  (a) incorporate state-of-the-art safeguards for protecting an individual's identity in the verification process;
  (b) comply with the requirements of this part through technological means where possible;
  (c) process an individual's identity attributes in a secure manner;
  (d) process only the minimum identity attributes reasonably necessary to achieve a specified purpose defined by the relying party requesting the presentation; and
  (e) accept a presentation of a state-endorsed digital identity by a digital guardian.
(2) A verifier may only process an individual's identity attributes from a state digital identity if:
  (a) authorized by the holder;
  (b) the processing is necessary for a presentation;
  (c) the holder has received conspicuous notice of:
    (i) what identity attributes are collected;
    (ii) how the identity attributes are used;
    (iii) the purpose for which the identity attributes are processed; and
    (iv) how long the identity attributes are retained; and
  (d) the holder consents to the processing of the identity attributes.
(3) A verifier may not require a holder to surrender the holder's secure electronic device in the course of a presentation.
(4) Nothing in this section relieves a verifier from complying with the requirements of Title 13, Chapter 44, Protection of Personal Information Act, or Title 13, Chapter 61, Utah Consumer Privacy Act.

Enacted by Chapter 436, 2026 General Session

Part 6
Relying Parties

63A-20-601 Requirements for relying parties.

(1) A relying party shall:
  (a) incorporate state-of-the-art safeguards for protecting an individual's identity in the verification process;
  (b) comply with the requirements of this part through technological means where possible;
  (c) process an individual's identity attributes in a secure manner;

(d) process only the minimum identity attributes reasonably necessary to achieve a specified purpose; and
(e) accept a presentation of a state-endorsed digital identity by a digital guardian.
(2) A relying party may only process an individual's identity attributes from a state digital identity if:
(a) authorized by the holder;
(b) the processing is necessary for a specified purpose;
(c) the holder has received conspicuous notice of:
(i) what identity attributes are collected;
(ii) how the identity attributes are used;
(iii) the purpose for which the identity attributes are processed; and
(iv) how long the identity attributes are retained; and
(d) the holder consents to the processing of the identity attributes.
(3) A relying party may not require a holder to surrender the holder's secure electronic device in the course of a presentation.
(4) A relying party may accept a state-endorsed digital identity as proof of an individual's identity or identity attributes unless a different method of proof is required by law.
(5) Nothing in this section relieves a relying party from complying with the requirements of Title 13, Chapter 44, Protection of Personal Information Act, or Title 13, Chapter 61, Utah Consumer Privacy Act.

Enacted by Chapter 436, 2026 General Session

Part 7
General Requirements

63A-20-701 Duty of loyalty.

The department, a digital wallet provider, a verifier, a relying party, and a digital guardian shall refrain from practices or activities related to the processing of an individual's identity attributes from a digital identity that:
(1) conflict with the best interests of an individual;
(2) take advantage of or otherwise exploit an individual;
(3) result in a disproportionate risk to an individual;
(4) are to an individual's detriment; or
(5) cause harm to an individual.

Enacted by Chapter 436, 2026 General Session

63A-20-702 Processing restrictions.

(1) Any record of a presentation of a state digital identity may only be processed by a digital wallet provider, a verifier, or a relying party:
(a) for the primary purpose for which the presentation was performed; or
(b) if required by law.
(2) Information provided by a holder, verifier, or relying party to a verifier or relying party in the course of a presentation may only be:
(a) processed for the primary purpose for which the holder disclosed the information; and
(b) used, retained, sold, or shared:

(i) following conspicuous notice to and express authorization by the holder; or
(ii) if required by law.

Enacted by Chapter 436, 2026 General Session

Part 8
Enforcement And Audit

63A-20-801 Complaints and enforcement.

(1) An individual may submit a complaint to the data privacy ombudsperson alleging a violation of this chapter by:
  (a) the department;
  (b) a digital wallet provider;
  (c) a verifier; or
  (d) a relying party.
(2) The data privacy ombudsperson may receive and review a complaint described in Subsection (1).
(3) If, after reviewing a complaint, the data privacy ombudsperson has reasonable cause to believe that a violation of this chapter has occurred, the data privacy ombudsperson may refer the complaint to the attorney general.
(4) Upon receiving a referral under Subsection (3), or when the attorney general has reasonable cause to believe that a violation of this chapter has occurred, the attorney general is authorized to:
  (a) issue civil investigative demands for depositions, documents, and requests for information in the time and manner prescribed by the attorney general; and
  (b) bring a civil action in a court of competent jurisdiction to:
    (i) enjoin a violation of this chapter;
    (ii) obtain declaratory relief regarding compliance with this chapter; or
    (iii) recover damages, restitution, and disgorgement on behalf of an individual injured by a violation of this chapter.
(5) The attorney general shall treat all information received in accordance with Subsection (4) as non-public and confidential unless confidentiality is waived by the providing party, or upon the filing of an enforcement action.
(6) In an action brought under Subsection (4), the court may award:
  (a) injunctive relief;
  (b) declaratory relief;
  (c) equitable relief including restitution and disgorgement;
  (d) actual damages;
  (e) costs; and
  (f) reasonable attorney fees.

Enacted by Chapter 436, 2026 General Session

63A-20-802 Auditing.

(1) Subject to prioritization of the Legislative Audit Subcommittee created in Section 36-12-8, the Office of the Legislative Auditor General shall conduct an audit of the program beginning on January 1, 2028.
(2) The audit shall evaluate:
  (a) the department's compliance with this chapter;
  (b) whether the department has met the restrictions on monitoring, surveillance, and tracking described in Section 63A-20-301;
  (c) the effectiveness of the program in meeting the objectives established in this chapter;
  (d) the appropriate long-term placement of the program within state government; and
  (e) recommended statutory changes to improve the program.
(3) The Office of the Legislative Auditor General shall:
  (a) complete the audit report by October 31, 2028;
  (b) provide the audit report to the Legislature; and
  (c) present the audit findings to the Legislative Audit Subcommittee at the subcommittee's next meeting after completion of the audit report.

Enacted by Chapter 436, 2026 General Session

Part 9
Severability

63A-20-901 Severability.
(1) If any provision of this chapter or the application of any provision to any person or circumstance is held invalid by a final decision of a court of competent jurisdiction, the remainder of this chapter shall be given effect without the invalid provision or application.
(2) The provisions of this chapter are severable.

Enacted by Chapter 436, 2026 General Session