

1 **OPEN AND PUBLIC MEETINGS ACT**

2 **REVISIONS**

3 2006 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Parley G. Hellewell**

6 House Sponsor: Douglas C. Aagard

7

8 **LONG TITLE**

9 **General Description:**

10 This bill recodifies and amends the Open and Public Meetings Act.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ updates statutory language to conform to current legislative styles;
- 14 ▶ renumbers sections;
- 15 ▶ moves some provisions to different or new sections; and
- 16 ▶ makes technical changes.

17 **Monies Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 This bill provides an effective date.

21 **Utah Code Sections Affected:**

22 **AMENDS:**

23 **7-1-203**, as last amended by Chapter 92, Laws of Utah 2004

24 **9-4-703**, as last amended by Chapter 185, Laws of Utah 2002

25 **9-4-906**, as last amended by Chapter 319, Laws of Utah 2001

26 **9-9-104.5**, as last amended by Chapter 55, Laws of Utah 2003

27 **9-10-105**, as enacted by Chapter 341, Laws of Utah 1995



28 **9-11-106**, as enacted by Chapter 135, Laws of Utah 1996
29 **9-14-104**, as enacted by Chapter 368, Laws of Utah 1999
30 **9-15-104**, as enacted by Chapter 368, Laws of Utah 1999
31 **10-3-601**, as last amended by Chapter 28, Laws of Utah 1979
32 **10-3-1212**, as last amended by Chapter 292, Laws of Utah 2003
33 **10-9a-103**, as last amended by Chapter 7 and renumbered and amended by Chapter
34 254, Laws of Utah 2005
35 **11-13-223**, as renumbered and amended by Chapter 286, Laws of Utah 2002
36 **17-27a-103**, as last amended by Chapter 7 and renumbered and amended by Chapter
37 254, Laws of Utah 2005
38 **17-53-206**, as last amended by Chapter 237, Laws of Utah 2003
39 **17A-1-303**, as last amended by Chapter 36, Laws of Utah 1997
40 **17A-1-448**, as enacted by Chapter 221, Laws of Utah 1998
41 **17B-2-406**, as enacted by Chapter 254, Laws of Utah 2000
42 **17B-4-1002**, as last amended by Chapter 292, Laws of Utah 2005
43 **20A-12-104**, as last amended by Chapter 249, Laws of Utah 1997
44 **26-18-105**, as last amended by Chapter 139, Laws of Utah 2005
45 **26-33a-103**, as last amended by Chapter 176, Laws of Utah 2002
46 **31A-33-104**, as last amended by Chapter 33, Laws of Utah 2001
47 **32A-1-106**, as last amended by Chapters 79 and 243, Laws of Utah 1996
48 **32A-1-119**, as last amended by Chapter 314, Laws of Utah 2003
49 **36-12-10**, as last amended by Chapter 13, Laws of Utah 1989
50 **53-1-105**, as enacted by Chapter 234, Laws of Utah 1993
51 **53A-1a-511**, as last amended by Chapter 251, Laws of Utah 2004
52 **53A-14-103**, as last amended by Chapter 84, Laws of Utah 2001
53 **53A-19-102**, as last amended by Chapter 79, Laws of Utah 1996
54 **58-1-404**, as last amended by Chapter 43, Laws of Utah 2003
55 **62A-4a-207**, as last amended by Chapter 93, Laws of Utah 2003
56 **63-2-301**, as last amended by Chapter 90, Laws of Utah 2004
57 **63-2-304**, as last amended by Chapters 2, 131, 201, 214, 256 and 297, Laws of Utah
58 2005

59 **63-38f-1205**, as last amended by Chapter 102 and renumbered and amended by Chapter
60 148, Laws of Utah 2005

61 **63-38f-1224**, as last amended by Chapter 14 and renumbered and amended by Chapter
62 148, Laws of Utah 2005

63 **63-88-107**, as last amended by Chapter 176, Laws of Utah 2002

64 **63A-1-114 (Superseded 07/01/06)**, as enacted by Chapter 34, Laws of Utah 2004

65 **63A-1-114 (Effective 07/01/06)**, as last amended by Chapter 169, Laws of Utah 2005

66 **63A-5-102**, as last amended by Chapter 79, Laws of Utah 1996

67 **63C-4-101**, as last amended by Chapter 345, Laws of Utah 2004

68 **63C-4-103**, as last amended by Chapter 298, Laws of Utah 2005

69 **63D-1a-203**, as last amended by Chapter 148, Laws of Utah 2005

70 **63E-2-109**, as enacted by Chapter 201, Laws of Utah 2001

71 **63F-1-302**, as enacted by Chapter 169, Laws of Utah 2005

72 **67-19a-406**, as last amended by Chapter 79, Laws of Utah 1996

73 **67-19a-408**, as last amended by Chapter 79, Laws of Utah 1996

74 ENACTS:

75 **52-4-101**, Utah Code Annotated 1953

76 **52-4-208**, Utah Code Annotated 1953

77 **52-4-301**, Utah Code Annotated 1953

78 RENUMBERS AND AMENDS:

79 **52-4-102**, (Renumbered from 52-4-1, as last amended by Chapter 180, Laws of Utah
80 1977)

81 **52-4-103**, (Renumbered from 52-4-2, as last amended by Chapter 89, Laws of Utah
82 1994)

83 **52-4-201**, (Renumbered from 52-4-3, as enacted by Chapter 180, Laws of Utah 1977)

84 **52-4-202**, (Renumbered from 52-4-6, as last amended by Chapter 110, Laws of Utah
85 1998)

86 **52-4-203**, (Renumbered from 52-4-7, as last amended by Chapter 311, Laws of Utah
87 2002)

88 **52-4-204**, (Renumbered from 52-4-4, as enacted by Chapter 180, Laws of Utah 1977)

89 **52-4-205**, (Renumbered from 52-4-5, as last amended by Chapter 294, Laws of Utah

- 90 2004)
- 91 **52-4-206**, (Renumbered from 52-4-7.5, as enacted by Chapter 89, Laws of Utah 1994)
- 92 **52-4-207**, (Renumbered from 52-4-7.8, as last amended by Chapter 9, Laws of Utah
- 93 2001)
- 94 **52-4-302**, (Renumbered from 52-4-8, as last amended by Chapter 17, Laws of Utah
- 95 1978)
- 96 **52-4-303**, (Renumbered from 52-4-9, as enacted by Chapter 180, Laws of Utah 1977)
- 97 **52-4-304**, (Renumbered from 52-4-10, as enacted by Chapter 89, Laws of Utah 1994)

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

100 Section 1. Section **7-1-203** is amended to read:

101 **7-1-203. Board of Financial Institutions.**

102 (1) There is created a Board of Financial Institutions consisting of the commissioner
103 and the following five members, who shall be qualified by training and experience in their
104 respective fields and shall be appointed by the governor with the consent of the Senate:

105 (a) one representative from the commercial banking business;

106 (b) one representative from the savings and loan, consumer lending, mortgage
107 brokerage, or escrow agency business;

108 (c) one representative from the industrial bank business;

109 (d) one representative from the credit union business; and

110 (e) one representative of the general public who, as a result of education, training,
111 experience, or interest, is well qualified to consider economic and financial issues and data as
112 they may affect the public interest in the soundness of the financial systems of this state.

113 (2) The commissioner shall act as chair.

114 (3) (a) All members of the board shall be residents of this state.

115 (b) No more than three members of the board may be from the same political party.

116 (c) No more than two members of the board may be connected with the same financial
117 institution or its holding company.

118 (d) A member may not participate in any matter involving any institution with which
119 the member has a conflict of interest.

120 (4) (a) Except as required by Subsection (4)(b), the terms of office shall be four years

121 each expiring on July 1.

122 (b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the
123 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
124 board members are staggered so that approximately half of the board is appointed every two
125 years.

126 (c) All members serve until their respective successors are appointed and qualified.

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

129 (5) (a) The board shall meet at least quarterly on a date it sets.

130 (b) The commissioner or any two members of the board may call additional meetings.

131 (c) Four members constitute a quorum for the transaction of business.

132 (d) Actions of the board require a vote of a majority of those present.

133 (e) Meetings of the board and records of its proceedings are subject to Title 52, Chapter
134 4, Open and Public Meetings Act, except for discussion of confidential information pertaining
135 to a particular financial institution.

136 (6) (a) Each member of the board shall, by sworn or written statement filed with the
137 commissioner, disclose any position of employment or ownership interest that the member has
138 with respect to any institution subject to the jurisdiction of the department.

139 (b) The member shall:

140 (i) file the statement required by this Subsection (6) when first appointed to the board;

141 and

142 (ii) subsequently file amendments to the statement if there is any material change in the
143 matters covered by the statement.

144 (7) (a) (i) Members who are not government employees shall receive no compensation
145 or benefits for their services, but may receive per diem and expenses incurred in the
146 performance of the member's official duties at the rates established by the Division of Finance
147 under Sections 63A-3-106 and 63A-3-107.

148 (ii) Members may decline to receive per diem and expenses for their service.

149 (b) (i) State government officer and employee members who do not receive salary, per
150 diem, or expenses from their agency for their service may receive per diem and expenses
151 incurred in the performance of their official duties from the board at the rates established by the

152 Division of Finance under Sections 63A-3-106 and 63A-3-107.

153 (ii) State government officer and employee members may decline to receive per diem
154 and expenses for their service.

155 (8) The board shall advise the commissioner with respect to:

156 (a) the exercise of the commissioner's duties, powers, and responsibilities under this
157 title; and

158 (b) the organization and performance of the department and its employees.

159 (9) The board shall recommend annually to the governor and the Legislature a budget
160 for the requirements of the department in carrying out its duties, functions, and responsibilities
161 under this title.

162 Section 2. Section **9-4-703** is amended to read:

163 **9-4-703. Housing loan fund board -- Duties -- Expenses.**

164 (1) There is created the Olene Walker Housing Loan Fund Board.

165 (2) The board shall be composed of 11 voting members.

166 (a) The governor shall appoint the following members to four-year terms:

167 (i) two members from local governments;

168 (ii) two members from the mortgage lending community;

169 (iii) one member from real estate sales interests;

170 (iv) one member from home builders interests;

171 (v) one member from rental housing interests;

172 (vi) one member from housing advocacy interests;

173 (vii) one member of the manufactured housing interest; and

174 (viii) two members of the general public.

175 (b) The director or his designee shall serve as the secretary of the committee.

176 (c) The members of the board shall annually elect a chair from among the voting
177 membership of the board.

178 (3) (a) Notwithstanding the requirements of Subsection (2), the governor shall, at the
179 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
180 board members are staggered so that approximately half of the board is appointed every two
181 years.

182 (b) When a vacancy occurs in the membership for any reason, the replacement shall be

183 appointed for the unexpired term.

184 (4) (a) The board shall:

185 (i) meet regularly, at least quarterly, on dates fixed by the board;

186 (ii) keep minutes of its meetings; and

187 (iii) comply with the procedures and requirements of Title 52, Chapter 4, Open and
188 Public Meetings Act.

189 (b) Seven members of the board constitute a quorum, and the governor, the chair, or a
190 majority of the board may call a meeting of the board.

191 (5) The board shall:

192 (a) review the housing needs in the state;

193 (b) determine the relevant operational aspects of any grant, loan, or revenue collection
194 program established under the authority of this chapter;

195 (c) determine the means to implement the policies and goals of this chapter;

196 (d) determine specific projects that the board considers should receive grant or loan
197 moneys; and

198 (e) determine how fund moneys shall be allocated and distributed.

199 (6) (a) (i) Members who are not government employees shall receive no compensation
200 or benefits for their services, but may receive per diem and expenses incurred in the
201 performance of the member's official duties at the rates established by the Division of Finance
202 under Sections 63A-3-106 and 63A-3-107.

203 (ii) Members may decline to receive per diem and expenses for their service.

204 (b) (i) State government employee members who do not receive salary, per diem, or
205 expenses from their agency for their service may receive per diem and expenses incurred in the
206 performance of their official duties from the board at the rates established by the Division of
207 Finance under Sections 63A-3-106 and 63A-3-107.

208 (ii) State government employee members may decline to receive per diem and
209 expenses for their service.

210 (c) (i) Local government members who do not receive salary, per diem, or expenses
211 from the entity that they represent for their service may receive per diem and expenses incurred
212 in the performance of their official duties at the rates established by the Division of Finance
213 under Sections 63A-3-106 and 63A-3-107.

214 (ii) Local government members may decline to receive per diem and expenses for their
215 service.

216 Section 3. Section **9-4-906** is amended to read:

217 **9-4-906. Relation to certain acts.**

218 (1) The corporation is exempt from:

219 (a) Title 51, Chapter 5, Funds Consolidation Act;

220 (b) Title 51, Chapter 7, State Money Management Act [~~of 1974~~];

221 (c) Title 63, Chapter 38, Budgetary Procedures Act;

222 (d) Title 63, Chapter 38a, Revenue Procedures and Control Act;

223 (e) Title 63, Chapter 56, Utah Procurement Code;

224 (f) Title 63A, Utah Administrative Services Code; and

225 (g) Title 67, Chapter 19, Utah State Personnel Management Act.

226 (2) The corporation shall comply with:

227 (a) Title 52, Chapter 4, Open and Public Meetings Act; and

228 (b) Title 63, Chapter 2, Government Records Access and Management Act.

229 Section 4. Section **9-9-104.5** is amended to read:

230 **9-9-104.5. Meetings with tribal leaders and Indian groups.**

231 (1) The division shall meet regularly with:

232 (a) elected officials of Indian tribes located in whole or in part in the state; or

233 (b) individuals designated by elected officials of the tribes described in Subsection

234 (1)(a).

235 (2) (a) Subject to Section 9-9-104.6, at least six times each year, the division shall
236 coordinate and attend a joint meeting of the representatives of tribal governments listed in
237 Subsection (2)(b) for the purpose of coordinating the efforts of state and tribal governments in
238 meeting the needs of the Native Americans residing in the state.

239 (b) (i) The representatives to be included in the meeting described in Subsection (2)(a)
240 shall be selected as follows:

241 (A) an elected official of the Navajo Nation that resides in San Juan County selected by
242 the Navajo Nation government;

243 (B) an elected official of the Northern Ute tribe selected by the Ute Business
244 Committee;

245 (C) an elected official of the Paiute Indian tribe selected by the Paiute Indian Tribal
246 Council;

247 (D) an elected official of the Northwestern Board of Shoshoni Nation that resides in
248 Northern Utah selected by the Northwestern Band of Shoshoni Tribal Council;

249 (E) an elected official of the Ibapah Band of Goshute Indians that resides in Ibapah
250 selected by the Goshute Indian Tribal Council;

251 (F) an elected official of the Skull Valley Band of Goshute Indians selected by the
252 Goshute Indian Tribal Council;

253 (G) an elected official of the Ute Mountain Ute Tribe that resides in Utah selected by
254 the Ute Mountain Ute Council; and

255 (H) an elected official of the San Juan Southern Paiute Tribe selected by the San Juan
256 Southern Paiute tribal government.

257 (ii) Notwithstanding Subsection (2)(b)(i), if an elected official of an Indian tribe
258 provides notice to the division, the Indian tribe may designate an individual other than the
259 elected official selected under Subsection (2)(b)(i) to represent the Indian tribe at a meeting
260 held under Subsection (2)(a).

261 (c) (i) A meeting held in accordance with Subsection (2)(a) is subject to Title 52,
262 Chapter 4, Open and Public Meetings Act.

263 (ii) A meeting of representatives listed in Subsection (2)(b) is not subject to the
264 requirements of Title 52, Chapter 4, Open and Public Meetings Act, notwithstanding whether it
265 is held on the same day as a meeting held in accordance with Subsection (2)(a) if:

266 (A) the division does not coordinate the meeting described in this Subsection (2)(c)(ii);

267 (B) no state agency participates in the meeting described in this Subsection (2)(c)(ii);

268 (C) a representative receives no per diem or expenses under this section for attending
269 the meeting described in this Subsection (2)(c)(ii) that in addition to any per diem or expenses
270 the representative receives under Subsection (2)(d) for attending a meeting described in
271 Subsection (2)(a); and

272 (D) the meeting described in this Subsection (2)(c)(ii) is not held:

273 (I) after a meeting described in Subsection (2)(a) begins; and

274 (II) before the meeting described in Subsection (2)(c)(ii)(D)(I) adjourns.

275 (d) (i) The representative selected under Subsection (2)(b) that attends a meeting held

276 in accordance with Subsection (2)(a) who does not receive compensation, per diem, or
277 expenses from the tribal government specifically for the representative's attendance at that
278 meeting may receive per diem and expenses incurred in attending the meeting at the rates
279 established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

280 (ii) A representative of a tribal government that attends a meeting held in accordance
281 with Subsection (2)(a) may decline to receive per diem and expenses for the representative's
282 attendance.

283 (iii) For each meeting, only one individual from each tribe may receive per diem and
284 expenses, as provided in Subsection (2)(d).

285 (3) The division may meet as necessary with Indian groups other than tribal
286 governments representing the interests of Native Americans who are citizens of the state
287 residing on or off reservation land.

288 Section 5. Section **9-10-105** is amended to read:

289 **9-10-105. Powers.**

290 (1) The board may:

291 (a) appoint a hearing examiner or administrative law judge with authority to conduct
292 any hearings, make determinations, and enter appropriate findings of facts, conclusions of law,
293 and orders under authority of the Interlocal Cooperation Act; and

294 (b) make rules under Title 63, Chapter 46a, Utah Administrative Rulemaking Act, if
295 necessary to perform its responsibilities.

296 (2) The board shall:

297 (a) be subject to the procedures and requirements under Title 52, Chapter 4, Open and
298 Public Meetings Act; and

299 (b) be subject to the procedures and requirements under Title 51, Chapter 7, State
300 Money Management Act.

301 Section 6. Section **9-11-106** is amended to read:

302 **9-11-106. Powers -- Duties.**

303 (1) The board shall:

304 (a) direct the division regarding grants and loans from the revitalization fund to eligible
305 entities to serve persons that are or may be socially or economically impacted, directly or
306 indirectly, by mineral resource development;

307 (b) establish procedures for application for an award of grants and loans including
308 eligibility criteria;

309 (c) coordinate projects and programs with other projects and programs funded by
310 federal, state, and local government entities;

311 (d) determine the order in which projects will be funded; and

312 (e) be subject to the procedures and requirements under Title 52, Chapter 4, Open and
313 Public Meetings Act.

314 (2) The board may:

315 (a) qualify for, accept, and administer grants, gifts, loans, or other funds from the
316 federal government and from other sources, public or private; and

317 (b) make rules under Title 63, Chapter 46a, Utah Administrative Rulemaking Act, if
318 necessary to perform its responsibilities.

319 Section 7. Section **9-14-104** is amended to read:

320 **9-14-104. Board duties and powers.**

321 (1) The board shall:

322 (a) establish procedures for the application for and awarding of grants to projects and
323 programs, including:

324 (i) eligibility criteria;

325 (ii) preference to projects and programs that are associated with the geographic areas
326 impacted by the Utah School and Lands Exchange Act of 1998, Pub.L. 105-335; and

327 (iii) coordination of projects and programs with other projects and programs funded by
328 federal, state, and local governmental entities;

329 (b) determine the order in which projects will be funded; and

330 (c) qualify for, accept, and administer grants, gifts, or other funds from the federal
331 government and from other sources, public or private.

332 (2) The board may make rules under Title 63, Chapter 46a, Utah Administrative
333 Rulemaking Act, if necessary to perform its responsibilities.

334 (3) The board is subject to the procedures and requirements under Title 52, Chapter 4,
335 Open and Public Meetings Act.

336 Section 8. Section **9-15-104** is amended to read:

337 **9-15-104. Board duties and powers.**

338 (1) The board shall:

339 (a) establish procedures for the awarding of grants under this chapter to programs and
340 projects that preserve and promote communications systems in the rural parts of the state for
341 the benefit of citizens who reside in rural Utah, including:

342 (i) eligibility criteria; and

343 (ii) coordination of projects and programs with other projects and programs funded by
344 federal, state, and local governmental entities;

345 (b) determine the order in which projects will be funded; and

346 (c) qualify for, accept, and administer grants, gifts, or other funds from the federal
347 government and from other sources, public or private.

348 (2) (a) The board may issue and sell revenue bonds, pledging as the sole source of
349 repayment those monies in the fund.

350 (b) The board shall use the proceeds of any issuance and sale of revenue bonds under
351 Subsection (2)(a) to finance in whole or in part projects authorized by this chapter.

352 (3) The board may make rules under Title 63, Chapter 46a, Utah Administrative
353 Rulemaking Act, if necessary to perform its responsibilities.

354 (4) The board is subject to the procedures and requirements under Title 52, Chapter 4,
355 Open and Public Meetings Act.

356 Section 9. Section **10-3-601** is amended to read:

357 **10-3-601. Business of governing body conducted only in open meeting.**

358 All meetings of the governing body of each municipality shall be held in compliance
359 with the provisions of Title 52, Chapter 4, [~~relating to open and public meetings~~] Open and
360 Public Meetings Act.

361 Section 10. Section **10-3-1212** is amended to read:

362 **10-3-1212. Meetings of council -- Access to records.**

363 (1) In municipalities organized under an optional form of government provided for in
364 this part, the council shall prescribe by ordinance the time and place of its regular meetings
365 provided that the council shall hold at least two public meetings each month in a city of the
366 first, second, third, or fourth class and at least one meeting each month in a city of the fifth
367 class or town. All meetings of the council shall be held in compliance with the provisions of
368 Title 52, Chapter 4, Open and Public Meetings Act.

369 (2) The books, records, and accounts of the council shall be kept at the office of the
370 city recorder or town clerk. Individual citizens or citizen groups may have access to all public
371 records with the exception of personnel records, which have not been classified as confidential
372 for public policy purposes.

373 Section 11. Section **10-9a-103** is amended to read:

374 **10-9a-103. Definitions.**

375 As used in this chapter:

376 (1) "Affected entity" means a county, municipality, independent special district under
377 Title 17A, Chapter 2, Independent Special Districts, local district under Title 17B, Chapter 2,
378 Local Districts, school district, interlocal cooperation entity established under Title 11, Chapter
379 13, Interlocal Cooperation Act, specified public utility, or the Utah Department of
380 Transportation, if:

381 (a) the entity's services or facilities are likely to require expansion or significant
382 modification because of an intended use of land;

383 (b) the entity has filed with the municipality a copy of the entity's general or long-range
384 plan; or

385 (c) the entity's boundaries or facilities are within one mile of land which is the subject
386 of a general plan amendment or land use ordinance change.

387 (2) "Appeal authority" means the person, board, commission, agency, or other body
388 designated by ordinance to decide an appeal of a decision of a land use application or a
389 variance.

390 (3) "Billboard" means a freestanding ground sign located on industrial, commercial, or
391 residential property if the sign is designed or intended to direct attention to a business, product,
392 or service that is not sold, offered, or existing on the property where the sign is located.

393 (4) "Charter school" includes:

394 (a) an operating charter school;

395 (b) a charter school applicant that has its application approved by a chartering entity in
396 accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; and

397 (c) an entity who is working on behalf of a charter school or approved charter applicant
398 to develop or construct a charter school building.

399 (5) "Chief executive officer" means the:

400 (a) mayor in municipalities operating under all forms of municipal government except
401 the council-manager form; or

402 (b) city manager in municipalities operating under the council-manager form of
403 municipal government.

404 (6) "Conditional use" means a land use that, because of its unique characteristics or
405 potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not be
406 compatible in some areas or may be compatible only if certain conditions are required that
407 mitigate or eliminate the detrimental impacts.

408 (7) "Constitutional taking" means a governmental action that results in a taking of
409 private property so that compensation to the owner of the property is required by the:

- 410 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or
- 411 (b) Utah Constitution Article I, Section 22.

412 (8) "Culinary water authority" means the department, agency, or public entity with
413 responsibility to review and approve the feasibility of the culinary water system and sources for
414 the subject property.

415 (9) (a) "Disability" means a physical or mental impairment that substantially limits one
416 or more of a person's major life activities, including a person having a record of such an
417 impairment or being regarded as having such an impairment.

418 (b) "Disability" does not include current illegal use of, or addiction to, any federally
419 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
420 802.

421 (10) "Elderly person" means a person who is 60 years old or older, who desires or
422 needs to live with other elderly persons in a group setting, but who is capable of living
423 independently.

424 (11) "General plan" means a document that a municipality adopts that sets forth general
425 guidelines for proposed future development of the land within the municipality.

426 (12) "Identical plans" means building plans submitted to a municipality that are
427 substantially identical to building plans that were previously submitted to and reviewed and
428 approved by the municipality and describe a building that is:

429 (a) located on land zoned the same as the land on which the building described in the
430 previously approved plans is located; and

431 (b) subject to the same geological and meteorological conditions and the same law as
432 the building described in the previously approved plans.

433 (13) "Land use application" means an application required by a municipality's land use
434 ordinance.

435 (14) "Land use authority" means a person, board, commission, agency, or other body
436 designated by the local legislative body to act upon a land use application.

437 (15) "Land use ordinance" means a planning, zoning, development, or subdivision
438 ordinance of the municipality, but does not include the general plan.

439 (16) "Legislative body" means the municipal council.

440 (17) "Lot line adjustment" means the relocation of the property boundary line in a
441 subdivision between two adjoining lots with the consent of the owners of record.

442 (18) "Moderate income housing" means housing occupied or reserved for occupancy
443 by households with a gross household income equal to or less than 80% of the median gross
444 income for households of the same size in the county in which the city is located.

445 (19) "Nominal fee" means a fee that reasonably reimburses a municipality only for time
446 spent and expenses incurred in:

447 (a) verifying that building plans are identical plans; and

448 (b) reviewing and approving those minor aspects of identical plans that differ from the
449 previously reviewed and approved building plans.

450 (20) "Noncomplying structure" means a structure that:

451 (a) legally existed before its current land use designation; and

452 (b) because of one or more subsequent land use ordinance changes, does not conform
453 to the setback, height restrictions, or other regulations, excluding those regulations, which
454 govern the use of land.

455 (21) "Nonconforming use" means a use of land that:

456 (a) legally existed before its current land use designation;

457 (b) has been maintained continuously since the time the land use ordinance governing
458 the land changed; and

459 (c) because of one or more subsequent land use ordinance changes, does not conform
460 to the regulations that now govern the use of the land.

461 (22) "Official map" means a map drawn by municipal authorities and recorded in a

462 county recorder's office that:

463 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
464 highways and other transportation facilities;

465 (b) provides a basis for restricting development in designated rights-of-way or between
466 designated setbacks to allow the government authorities time to purchase or otherwise reserve
467 the land; and

468 (c) has been adopted as an element of the municipality's general plan.

469 (23) "Person" means an individual, corporation, partnership, organization, association,
470 trust, governmental agency, or any other legal entity.

471 (24) "Plan for moderate income housing" means a written document adopted by a city
472 legislative body that includes:

473 (a) an estimate of the existing supply of moderate income housing located within the
474 city;

475 (b) an estimate of the need for moderate income housing in the city for the next five
476 years as revised biennially;

477 (c) a survey of total residential land use;

478 (d) an evaluation of how existing land uses and zones affect opportunities for moderate
479 income housing; and

480 (e) a description of the city's program to encourage an adequate supply of moderate
481 income housing.

482 (25) "Plat" means a map or other graphical representation of lands being laid out and
483 prepared in accordance with Section 10-9a-603, 17-23-17, or 57-8-13.

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

486 (27) "Public meeting" means a meeting that is required to be open to the public under
487 Title 52, Chapter 4, Open and Public Meetings Act.

488 (28) "Record of survey map" means a map of a survey of land prepared in accordance
489 with Section 17-23-17.

490 (29) "Residential facility for elderly persons" means a single-family or multiple-family
491 dwelling unit that meets the requirements of Part 4, General Plan, but does not include a health
492 care facility as defined by Section 26-21-2.

493 (30) "Residential facility for persons with a disability" means a residence:
494 (a) in which more than one person with a disability resides; and
495 (b) (i) is licensed or certified by the Department of Human Services under Title 62A,
496 Chapter 2, Licensure of Programs and Facilities; or
497 (ii) is licensed or certified by the Department of Health under Title 26, Chapter 21,
498 Health Care Facility Licensing and Inspection Act.

499 (31) "Sanitary sewer authority" means the department, agency, or public entity with
500 responsibility to review and approve the feasibility of sanitary sewer services or onsite
501 wastewater systems.

502 (32) "Special district" means an entity established under the authority of Title 17A,
503 Special Districts, and any other governmental or quasi-governmental entity that is not a county,
504 municipality, school district, or unit of the state.

505 (33) "Specified public utility" means an electrical corporation, gas corporation, or
506 telephone corporation, as those terms are defined in Section 54-2-1.

507 (34) "Street" means a public right-of-way, including a highway, avenue, boulevard,
508 parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other
509 way.

510 (35) (a) "Subdivision" means any land that is divided, resubdivided or proposed to be
511 divided into two or more lots, parcels, sites, units, plots, or other division of land for the
512 purpose, whether immediate or future, for offer, sale, lease, or development either on the
513 installment plan or upon any and all other plans, terms, and conditions.

514 (b) "Subdivision" includes:
515 (i) the division or development of land whether by deed, metes and bounds description,
516 devise and testacy, map, plat, or other recorded instrument; and
517 (ii) except as provided in Subsection (35)(c), divisions of land for residential and
518 nonresidential uses, including land used or to be used for commercial, agricultural, and
519 industrial purposes.

520 (c) "Subdivision" does not include:
521 (i) a bona fide division or partition of agricultural land for the purpose of joining one of
522 the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if
523 neither the resulting combined parcel nor the parcel remaining from the division or partition

524 violates an applicable land use ordinance;

525 (ii) a recorded agreement between owners of adjoining unsubdivided properties

526 adjusting their mutual boundary if:

527 (A) no new lot is created; and

528 (B) the adjustment does not violate applicable land use ordinances; or

529 (iii) a recorded document, executed by the owner of record:

530 (A) revising the legal description of more than one contiguous unsubdivided parcel of
531 property into one legal description encompassing all such parcels of property; or

532 (B) joining a subdivided parcel of property to another parcel of property that has not
533 been subdivided, if the joinder does not violate applicable land use ordinances.

534 (d) The joining of a subdivided parcel of property to another parcel of property that has
535 not been subdivided does not constitute a subdivision under this Subsection (35) as to the
536 unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's
537 subdivision ordinance.

538 (36) "Unincorporated" means the area outside of the incorporated area of a city or
539 town.

540 (37) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts
541 land use zones, overlays, or districts.

542 Section 12. Section **11-13-223** is amended to read:

543 **11-13-223. Open and public meetings.**

544 (1) To the extent that an interlocal entity is subject to or elects, by formal resolution of
545 its governing body to comply with the provisions of Title 52, Chapter 4, Open and Public
546 Meetings Act, it may for purposes of complying with those provisions:

547 (a) convene and conduct any public meeting by means of a telephonic or
548 telecommunications conference; and

549 (b) give public notice of its meeting pursuant to Section [~~52-4-6~~] 52-4-202 by:

550 (i) posting written notice at the principal office of the governing body of the interlocal
551 entity, or if no such office exists, at the building where the meeting is to be held; and

552 (ii) providing notice to at least one newspaper of general circulation within the
553 boundaries of the municipality in which that principal office is located, or to a local media
554 correspondent.

555 (2) In order to convene and conduct a public meeting by means of a telephonic or
556 telecommunications conference, each interlocal entity shall if it is subject to or elects by formal
557 resolution of its governing body to comply with Title 52, Chapter 4, Open and Public Meetings
558 Act:

559 (a) in addition to giving public notice required by Subsection (1) provide:

560 (i) notice of the telephonic or telecommunications conference to the members of the
561 governing body at least 24 hours before the meeting so that they may participate in and be
562 counted as present for all purposes, including the determination that a quorum is present; and

563 (ii) a description of how the members will be connected to the telephonic or
564 telecommunications conference;

565 (b) establish written procedures governing the conduct of any meeting at which one or
566 more members of the governing body are participating by means of a telephonic or
567 telecommunications conference;

568 (c) provide for an anchor location for the public meeting at the principal office of the
569 governing body; and

570 (d) provide space and facilities for the physical attendance and participation of
571 interested persons and the public at the anchor location, including providing for interested
572 persons and the public to hear by speaker or other equipment all discussions and deliberations
573 of those members of the governing body participating in the meeting by means of telephonic or
574 telecommunications conference.

575 (3) Compliance with the provisions of this section by a governing body constitutes full
576 and complete compliance by the governing body with the corresponding provisions of Sections
577 [~~52-4-3 and 52-4-6~~] 52-4-201 and 52-4-202, to the extent that those sections are applicable to
578 the governing body.

579 Section 13. Section **17-27a-103** is amended to read:

580 **17-27a-103. Definitions.**

581 As used in this chapter:

582 (1) "Affected entity" means a county, municipality, independent special district under
583 Title 17A, Chapter 2, Independent Special Districts, local district under Title 17B, Chapter 2,
584 Local Districts, school district, interlocal cooperation entity established under Title 11, Chapter
585 13, Interlocal Cooperation Act, specified public utility, or the Utah Department of

586 Transportation, if:

587 (a) the entity's services or facilities are likely to require expansion or significant
588 modification because of an intended use of land;

589 (b) the entity has filed with the county a copy of the entity's general or long-range plan;
590 or

591 (c) the entity's boundaries or facilities are within one mile of land that is the subject of
592 a general plan amendment or land use ordinance change.

593 (2) "Appeal authority" means the person, board, commission, agency, or other body
594 designated by ordinance to decide an appeal of a decision of a land use application or a
595 variance.

596 (3) "Billboard" means a freestanding ground sign located on industrial, commercial, or
597 residential property if the sign is designed or intended to direct attention to a business, product,
598 or service that is not sold, offered, or existing on the property where the sign is located.

599 (4) "Charter school" includes:

600 (a) an operating charter school;

601 (b) a charter school applicant that has its application approved by a chartering entity in
602 accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; and

603 (c) an entity who is working on behalf of a charter school or approved charter applicant
604 to develop or construct a charter school building.

605 (5) "Chief executive officer" means the person or body that exercises the executive
606 powers of the county.

607 (6) "Conditional use" means a land use that, because of its unique characteristics or
608 potential impact on the county, surrounding neighbors, or adjacent land uses, may not be
609 compatible in some areas or may be compatible only if certain conditions are required that
610 mitigate or eliminate the detrimental impacts.

611 (7) "Constitutional taking" means a governmental action that results in a taking of
612 private property so that compensation to the owner of the property is required by the:

613 (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

614 (b) Utah Constitution Article I, Section 22.

615 (8) "Culinary water authority" means the department, agency, or public entity with
616 responsibility to review and approve the feasibility of the culinary water system and sources for

617 the subject property.

618 (9) (a) "Disability" means a physical or mental impairment that substantially limits one
619 or more of a person's major life activities, including a person having a record of such an
620 impairment or being regarded as having such an impairment.

621 (b) "Disability" does not include current illegal use of, or addiction to, any federally
622 controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C.
623 802.

624 (10) "Elderly person" means a person who is 60 years old or older, who desires or
625 needs to live with other elderly persons in a group setting, but who is capable of living
626 independently.

627 (11) "Gas corporation" has the same meaning as defined in Section 54-2-1.

628 (12) "General plan" means a document that a county adopts that sets forth general
629 guidelines for proposed future development of the unincorporated land within the county.

630 (13) "Identical plans" means building plans submitted to a county that are substantially
631 identical building plans that were previously submitted to and reviewed and approved by the
632 county and describe a building that is:

633 (a) located on land zoned the same as the land on which the building described in the
634 previously approved plans is located; and

635 (b) subject to the same geological and meteorological conditions and the same law as
636 the building described in the previously approved plans.

637 (14) "Interstate pipeline company" means a person or entity engaged in natural gas
638 transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under
639 the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

640 (15) "Intrastate pipeline company" means a person or entity engaged in natural gas
641 transportation that is not subject to the jurisdiction of the Federal Energy Regulatory
642 Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

643 (16) "Land use application" means an application required by a county's land use
644 ordinance.

645 (17) "Land use authority" means a person, board, commission, agency, or other body
646 designated by the local legislative body to act upon a land use application.

647 (18) "Land use ordinance" means a planning, zoning, development, or subdivision

648 ordinance of the county, but does not include the general plan.

649 (19) "Legislative body" means the county legislative body, or for a county that has
650 adopted an alternative form of government, the body exercising legislative powers.

651 (20) "Lot line adjustment" means the relocation of the property boundary line in a
652 subdivision between two adjoining lots with the consent of the owners of record.

653 (21) "Moderate income housing" means housing occupied or reserved for occupancy
654 by households with a gross household income equal to or less than 80% of the median gross
655 income for households of the same size in the county in which the housing is located.

656 (22) "Nominal fee" means a fee that reasonably reimburses a county only for time spent
657 and expenses incurred in:

658 (a) verifying that building plans are identical plans; and

659 (b) reviewing and approving those minor aspects of identical plans that differ from the
660 previously reviewed and approved building plans.

661 (23) "Noncomplying structure" means a structure that:

662 (a) legally existed before its current land use designation; and

663 (b) because of one or more subsequent land use ordinance changes, does not conform
664 to the setback, height restrictions, or other regulations, excluding those regulations that govern
665 the use of land.

666 (24) "Nonconforming use" means a use of land that:

667 (a) legally existed before its current land use designation;

668 (b) has been maintained continuously since the time the land use ordinance regulation
669 governing the land changed; and

670 (c) because of one or more subsequent land use ordinance changes, does not conform
671 to the regulations that now govern the use of the land.

672 (25) "Official map" means a map drawn by county authorities and recorded in the
673 county recorder's office that:

674 (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for
675 highways and other transportation facilities;

676 (b) provides a basis for restricting development in designated rights-of-way or between
677 designated setbacks to allow the government authorities time to purchase or otherwise reserve
678 the land; and

679 (c) has been adopted as an element of the county's general plan.

680 (26) "Person" means an individual, corporation, partnership, organization, association,
681 trust, governmental agency, or any other legal entity.

682 (27) "Plan for moderate income housing" means a written document adopted by a
683 county legislative body that includes:

684 (a) an estimate of the existing supply of moderate income housing located within the
685 county;

686 (b) an estimate of the need for moderate income housing in the county for the next five
687 years as revised biennially;

688 (c) a survey of total residential land use;

689 (d) an evaluation of how existing land uses and zones affect opportunities for moderate
690 income housing; and

691 (e) a description of the county's program to encourage an adequate supply of moderate
692 income housing.

693 (28) "Plat" means a map or other graphical representation of lands being laid out and
694 prepared in accordance with Section 17-27a-603, 17-23-17, or 57-8-13.

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

697 (30) "Public meeting" means a meeting that is required to be open to the public under
698 Title 52, Chapter 4, Open and Public Meetings Act.

699 (31) "Record of survey map" means a map of a survey of land prepared in accordance
700 with Section 17-23-17.

701 (32) "Residential facility for elderly persons" means a single-family or multiple-family
702 dwelling unit that meets the requirements of Part 4, General Plan, but does not include a health
703 care facility as defined by Section 26-21-2.

704 (33) "Residential facility for persons with a disability" means a residence:

705 (a) in which more than one person with a disability resides; and

706 (b) (i) is licensed or certified by the Department of Human Services under Title 62A,
707 Chapter 2, Licensure of Programs and Facilities; or

708 (ii) is licensed or certified by the Department of Health under Title 26, Chapter 21,
709 Health Care Facility Licensing and Inspection Act.

710 (34) "Sanitary sewer authority" means the department, agency, or public entity with
711 responsibility to review and approve the feasibility of sanitary sewer services or onsite
712 wastewater systems.

713 (35) "Special district" means any entity established under the authority of Title 17A,
714 Special Districts, and any other governmental or quasi-governmental entity that is not a county,
715 municipality, school district, or unit of the state.

716 (36) "Specified public utility" means an electrical corporation, gas corporation, or
717 telephone corporation, as those terms are defined in Section 54-2-1.

718 (37) "Street" means a public right-of-way, including a highway, avenue, boulevard,
719 parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other
720 way.

721 (38) (a) "Subdivision" means any land that is divided, resubdivided or proposed to be
722 divided into two or more lots, parcels, sites, units, plots, or other division of land for the
723 purpose, whether immediate or future, for offer, sale, lease, or development either on the
724 installment plan or upon any and all other plans, terms, and conditions.

725 (b) "Subdivision" includes:

726 (i) the division or development of land whether by deed, metes and bounds description,
727 devise and testacy, map, plat, or other recorded instrument; and

728 (ii) except as provided in Subsection (38)(c), divisions of land for residential and
729 nonresidential uses, including land used or to be used for commercial, agricultural, and
730 industrial purposes.

731 (c) "Subdivision" does not include:

732 (i) a bona fide division or partition of agricultural land for agricultural purposes;

733 (ii) a recorded agreement between owners of adjoining properties adjusting their
734 mutual boundary if:

735 (A) no new lot is created; and

736 (B) the adjustment does not violate applicable land use ordinances;

737 (iii) a recorded document, executed by the owner of record:

738 (A) revising the legal description of more than one contiguous unsubdivided parcel of
739 property into one legal description encompassing all such parcels of property; or

740 (B) joining a subdivided parcel of property to another parcel of property that has not

741 been subdivided, if the joinder does not violate applicable land use ordinances; or

742 (iv) a bona fide division or partition of land in a county other than a first class county
743 for the purpose of siting, on one or more of the resulting separate parcels:

744 (A) an unmanned facility appurtenant to a pipeline owned or operated by a gas
745 corporation, interstate pipeline company, or intrastate pipeline company; or

746 (B) an unmanned telecommunications, microwave, fiber optic, electrical, or other
747 utility service regeneration, transformation, retransmission, or amplification facility.

748 (d) The joining of a subdivided parcel of property to another parcel of property that has
749 not been subdivided does not constitute a subdivision under this Subsection (38) as to the
750 unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision
751 ordinance.

752 (39) "Township" means a contiguous, geographically defined portion of the
753 unincorporated area of a county, established under this part or reconstituted or reinstated under
754 Section 17-27a-307, with planning and zoning functions as exercised through the township
755 planning commission, as provided in this chapter, but with no legal or political identity
756 separate from the county and no taxing authority, except that "township" means a former
757 township under Chapter 308, Laws of Utah 1996 where the context so indicates.

758 (40) "Unincorporated" means the area outside of the incorporated area of a
759 municipality.

760 (41) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts
761 land use zones, overlays, or districts.

762 Section 14. Section **17-53-206** is amended to read:

763 **17-53-206. Meetings to comply with open meetings law -- Records and minutes --**
764 **Compelling attendance at meetings of legislative body.**

765 (1) Each meeting of the county legislative body shall comply with Title 52, Chapter 4,
766 Open and Public Meetings Act.

767 (2) The chair and clerk of the county legislative body shall sign the records and
768 minutes of the county legislative body.

769 (3) The legislative body of a county may compel the attendance of its own members at
770 its meetings and provide penalties it considers necessary for the failure to comply with an
771 exercise of the authority to compel attendance.

772 Section 15. Section **17A-1-303** is amended to read:

773 **17A-1-303. Appointment procedures for appointed members.**

774 (1) The appointing authority may, by resolution, appoint persons to serve as members
775 of a special district board by following the procedures established by this section.

776 (2) (a) In any calendar year when appointment of a new special district board member
777 is required, the appointing authority shall prepare a notice of vacancy that contains:

778 (i) the positions that are vacant that must be filled by appointment;

779 (ii) the qualifications required to be appointed to those positions;

780 (iii) the procedures for appointment that the governing body will follow in making
781 those appointments; and

782 (iv) the person to be contacted and any deadlines that a person must meet who wishes
783 to be considered for appointment to those positions.

784 (b) The appointing authority shall:

785 (i) post the notice of vacancy in four public places within the special district at least
786 one month before the deadline for accepting nominees for appointment; and

787 (ii) publish the notice of vacancy:

788 (A) in a daily newspaper of general circulation within the special district for five
789 consecutive days before the deadline for accepting nominees for appointment; or

790 (B) in a local weekly newspaper circulated within the special district in the week
791 before the deadline for accepting nominees for appointment.

792 (c) The appointing authority may bill the special district for the cost of preparing,
793 printing, and publishing the notice.

794 (3) (a) Not sooner than two months after the appointing authority is notified of the
795 vacancy, the appointing authority shall select a person to fill the vacancy from the applicants
796 who meet the qualifications established by law.

797 (b) The appointing authority shall:

798 (i) comply with Title 52, Chapter 4, Open and Public Meetings Act, in making the
799 appointment;

800 (ii) allow any interested persons to be heard; and

801 (iii) adopt a resolution appointing a person to the special district board.

802 (c) If no candidate for appointment to fill the vacancy receives a majority vote of the

803 appointing authority, the appointing authority shall select the appointee from the two top
804 candidates by lot.

805 (4) Persons appointed to serve as members of the special district board serve four-year
806 terms, but may be removed with cause at any time after a hearing by 2/3 vote of the appointing
807 body.

808 (5) At the end of each board member's term, the position is considered vacant and the
809 governing body may either reappoint the old board member or appoint a new member after
810 following the appointment procedures established in this section.

811 (6) Notwithstanding any other provision of this section, if the appointing authority
812 appoints one of its own members, it need not comply with the provisions of this section.

813 Section 16. Section **17A-1-448** is amended to read:

814 **17A-1-448. Imposing or increasing a fee for service provided by special district.**

815 (1) (a) Before imposing a new fee or increasing an existing fee for a service provided
816 by a special district, each special district board shall first hold a public hearing at which any
817 interested person may speak for or against the proposal to impose a fee or to increase an
818 existing fee.

819 (b) Each public hearing under Subsection (1)(a) shall be held in the evening beginning
820 no earlier than 6:00 p.m.

821 (c) Except to the extent that this section imposes more stringent notice requirements,
822 the special district board shall comply with Title 52, Chapter 4, Open and Public Meetings Act,
823 in holding the public hearing under Subsection (1)(a).

824 (2) (a) Each special district board shall give notice of a hearing under Subsection (1) as
825 provided in Subsection (2)(b) or (c).

826 (b) (i) The notice required under Subsection (2)(a) shall be published in a newspaper or
827 combination of newspapers of general circulation in the special district, if there is a newspaper
828 or combination of newspapers of general circulation in the special district.

829 (ii) The notice shall be no less than 1/4 page in size and the type used shall be no
830 smaller than 18 point, and surrounded by a 1/4-inch border.

831 (iii) The notice may not be placed in that portion of the newspaper where legal notices
832 and classified advertisements appear.

833 (iv) It is legislative intent that, whenever possible, the advertisement appear in a

834 newspaper that is published at least one day per week.

835 (v) It is further the intent of the Legislature that the newspaper or combination of
836 newspapers selected be of general interest and readership in the special district, and not of
837 limited subject matter.

838 (vi) The notice shall be run once each week for the two weeks preceding the hearing.

839 (vii) The notice shall state that the special district board intends to impose or increase a
840 fee for a service provided by the special district and will hold a public hearing on a certain day,
841 time, and place fixed in the notice, which shall be not less than seven days after the day the first
842 notice is published, for the purpose of hearing comments regarding the proposed imposition or
843 increase of a fee and to explain the reasons for the proposed imposition or increase.

844 (c) (i) If there is no newspaper or combination of newspapers of general circulation in
845 the special district, the special district board shall post at least one notice per 1,000 population
846 within the special district, at places within the special district that are most likely to provide
847 actual notice to residents within the special district.

848 (ii) Each notice under Subsection (2)(c)(i) shall comply with Subsection (2)(b)(vii).

849 (d) Proof that notice was given as provided in Subsection (2)(b) or (c) is prima facie
850 evidence that notice was properly given.

851 (e) If no challenge is made to the notice given of a hearing required by Subsection (1)
852 within 30 days after the date of the hearing, the notice is considered adequate and proper.

853 (3) After holding a public hearing under Subsection (1), a special district board may:

854 (a) impose the new fee or increase the existing fee as proposed;

855 (b) adjust the amount of the proposed new fee or the increase of the existing fee and
856 then impose the new fee or increase the existing fee as adjusted; or

857 (c) decline to impose the new fee or increase the existing fee.

858 (4) This section applies to each new fee imposed and each increase of an existing fee
859 that occurs on or after July 1, 1998.

860 Section 17. Section **17B-2-406** is amended to read:

861 **17B-2-406. Quorum of board of trustees -- Meetings of the board.**

862 (1) (a) Except as provided in Subsection (1)(b), a majority of the board of trustees
863 constitutes a quorum for the transaction of board business, and action by a majority of a
864 quorum constitutes action of the board.

865 (b) (i) Subject to Subsection (1)(b)(ii), a board may adopt bylaws or other rules that
866 require more than a majority to constitute a quorum or that require action by more than a
867 majority of a quorum to constitute action by the board.

868 (ii) Except for board action to dispose of real property owned by the local district,
869 board bylaws or rules may not require a vote of more than two-thirds vote of the board to
870 constitute board action.

871 (2) The board of trustees shall hold such regular and special meetings as the board
872 determines at a location that the board determines.

873 (3) Each meeting of the board of trustees shall comply with Title 52, Chapter 4, Open
874 and Public Meetings Act.

875 Section 18. Section **17B-4-1002** is amended to read:

876 **17B-4-1002. Taxing entity committee.**

877 (1) Each agency that adopts or proposes to adopt a post-June 30, 1993 project area plan
878 shall, and any other agency may, cause a taxing entity committee to be created.

879 (2) (a) (i) Each taxing entity committee shall be composed of:

880 (A) two school district representatives appointed as provided in Subsection (2)(a)(ii);

881 (B) (I) in a county of the second, third, fourth, fifth, or sixth class, two representatives
882 appointed by resolution of the legislative body of the county in which the agency is located; or

883 (II) in a county of the first class, one representative appointed by the county executive
884 and one representative appointed by the legislative body of the county in which the agency is
885 located;

886 (C) if the agency was created by a city or town, two representatives appointed by
887 resolution of the legislative body of that city or town;

888 (D) one representative appointed by the State Board of Education; and

889 (E) one representative selected by majority vote of the legislative bodies or governing
890 boards of all other taxing entities that levy a tax on property within the agency's boundaries, to
891 represent the interests of those taxing entities on the taxing entity committee.

892 (ii) (A) If the agency boundaries include only one school district, that school district
893 shall appoint the two school district representatives under Subsection (2)(a)(i)(A).

894 (B) If the agency boundaries include more than one school district, those school
895 districts shall jointly appoint the two school district representatives under Subsection

896 (2)(a)(i)(A).

897 (b) (i) Each taxing entity committee representative under Subsection (2)(a) shall be
898 appointed within 30 days after the agency provides notice of the creation of the taxing entity
899 committee.

900 (ii) If a representative is not appointed within the time required under Subsection
901 (2)(b)(i), the agency board may appoint a person to serve on the taxing entity committee in the
902 place of the missing representative until that representative is appointed.

903 (c) (i) A taxing entity committee representative may be appointed for a set term or
904 period of time, as determined by the appointing authority under Subsection (2)(a)(i).

905 (ii) Each taxing entity committee representative shall serve until a successor is
906 appointed and qualified.

907 (d) (i) Upon the appointment of each representative under Subsection (2)(a)(i), whether
908 an initial appointment or an appointment to replace an already serving representative, the
909 appointing authority shall:

910 (A) notify the agency in writing of the name and address of the newly appointed
911 representative; and

912 (B) provide the agency a copy of the resolution making the appointment or, if the
913 appointment is not made by resolution, other evidence of the appointment.

914 (ii) Each appointing authority of a taxing entity committee representative under
915 Subsection (2)(a)(i) shall notify the agency in writing of any change of address of a
916 representative appointed by that appointing authority.

917 (3) A taxing entity committee represents all taxing entities regarding a project area and
918 may:

919 (a) cast votes that will be binding on all taxing entities;

920 (b) negotiate with the agency concerning a draft project area plan;

921 (c) approve or disapprove a project area budget as provided in Section 17B-4-505;

922 (d) approve or disapprove amendments to a project area budget as provided in Section
923 17B-4-507;

924 (e) approve exceptions to the limits on the value and size of a project area imposed
925 under this chapter;

926 (f) approve exceptions to the percentage of tax increment and the period of time that

927 tax increment is paid to the agency as provided in this part;

928 (g) approve the use of tax increment for access and utilities outside of a project area
929 that the agency and community legislative body determine to be of benefit to the project area,
930 as provided in Subsection 17B-4-1007(1)(a)(ii)(D);

931 (h) waive the restrictions imposed by Subsection 17B-4-503(2)(a); and

932 (i) give other taxing entity committee approval or consent required or allowed under
933 this chapter.

934 (4) A quorum of a taxing entity committee consists of:

935 (a) except as provided in Subsection (4)(b):

936 (i) if the project area is located within a city or town, five members; or

937 (ii) if the project area is not located within a city or town, four members; or

938 (b) for an education housing development project area as to which the school district
939 has elected under Subsection 17B-4-1004(5) not to allow the agency to be paid tax increment
940 from school district tax revenues:

941 (i) if the project area is located within a city or town, three members; or

942 (ii) if the project area is not located within a city or town, two members.

943 (5) Taxing entity committee approval, consent, or other action requires the affirmative
944 vote of a majority of a quorum present at a taxing entity committee meeting.

945 (6) Each taxing entity committee shall be governed by Title 52, Chapter 4, Open and
946 Public Meetings Act.

947 (7) Each time a school district representative or a representative of the State Board of
948 Education votes as a member of a taxing entity committee to allow an agency to be paid tax
949 increment or to increase the amount or length of time that an agency may be paid tax
950 increment, that representative shall, within 45 days after the vote, provide to the
951 representative's respective school board an explanation in writing of the representative's vote
952 and the reasons for the vote.

953 (8) (a) The assessor of each county in which the agency is located shall provide a
954 written report to the taxing entity committee stating, with respect to property within each
955 project area:

956 (i) the base taxable value, as adjusted by any adjustments under Section 17B-4-1006;

957 and

- 958 (ii) the assessed value.
- 959 (b) With respect to the information required under Subsection (8)(a), the assessor shall
- 960 provide:
- 961 (i) actual amounts for each year from the adoption of the project area plan to the time
- 962 of the report; and
- 963 (ii) estimated amounts for each year beginning the year after the time of the report and
- 964 ending the time that the agency expects no longer to be paid tax increment from property
- 965 within the project area.
- 966 (c) The assessor of the county in which the agency is located shall provide a report
- 967 under this Subsection (8):
- 968 (i) at least annually; and
- 969 (ii) upon request of the taxing entity committee, before a taxing entity committee
- 970 meeting at which the committee will consider whether to allow the agency to be paid tax
- 971 increment or to increase the amount of tax increment that the agency may be paid.

972 Section 19. Section **20A-12-104** is amended to read:

973 **20A-12-104. Procedures governing meetings of judicial nominating commissions.**

- 974 (1) The Judicial Council shall:
- 975 (a) enact rules establishing procedures governing the meetings of the judicial
- 976 nominating commissions; and
- 977 (b) ensure that those procedures include:
- 978 (i) a minimum recruitment period of 30 days and a procedure to extend that period for
- 979 an additional 30 days if fewer than nine applications are received for a judicial vacancy;
- 980 (ii) standards for maintaining the confidentiality of the applications and related
- 981 documents;
- 982 (iii) standards governing the release of applicant names before nomination;
- 983 (iv) standards for destroying the records of the names of applicants, applications, and
- 984 related documents upon completion of the nominating process;
- 985 (v) an opportunity for public comment concerning the nominating process,
- 986 qualifications for judicial office, and individual applicants;
- 987 (vi) evaluation criteria for the selection of judicial nominees;
- 988 (vii) procedures for taking summary minutes at nominating commission meetings;

989 (viii) procedures for simultaneously forwarding the names of nominees to the
990 governor, the president of the Senate, and the Office of Legislative Research and General
991 Counsel; and

992 (ix) standards governing a nominating commissioner's disqualification and inability to
993 serve.

994 (2) (a) (i) Except as provided in this Subsection (2)(a)(ii), if a judicial nominating
995 commission receives 15 or more applications to fill a judicial vacancy, the nominating
996 commission shall submit at least five names to the governor.

997 (ii) Notwithstanding Subsection (2)(a)(i), if five applicants do not receive the required
998 number of votes as specified in Subsection (2)(c) from the nominating commission, the
999 commission shall submit only the names of applicants that received the required number of
1000 votes, but must submit the names of at least three applicants.

1001 (b) In determining whether or not to submit an applicant's name to the governor, a
1002 commission may not decline to consider an applicant merely because:

1003 (i) the nominating commission had declined to submit that candidate's name to the
1004 governor to fill a previous vacancy;

1005 (ii) a previous nominating commission had declined to submit that candidate's name to
1006 the governor; or

1007 (iii) that nominating commission or a previous nominating commission had submitted
1008 the applicant's name to the governor and the governor selected someone else to fill the vacancy.

1009 (c) The vote required to submit an applicant's name to the governor is as follows:

1010 (i) if all seven members of the nominating commission are present and considering
1011 applicants, a vote in favor of the applicant by four commissioners submits the candidate's name
1012 to the governor;

1013 (ii) if only six members of the nominating commission are present and considering
1014 applicants because one member is unable to attend, has recused himself or is otherwise
1015 disqualified, a vote in favor of the applicant by four commissioners submits the candidate's
1016 name to the governor;

1017 (iii) if only five members of the nominating commission are present and considering
1018 applicants because two members are unable to attend, have recused themselves, or are
1019 otherwise disqualified, a vote in favor of the applicant by three commissioners submits the

1020 candidate's name to the governor; and

1021 (iv) if only four members of the nominating commission are present and considering
1022 applicants because three members are unable to attend, have recused themselves, or are
1023 otherwise disqualified, a vote in favor of the applicant by three commissioners submits the
1024 candidate's name to the governor.

1025 (3) A judicial nominating commission may not nominate a justice or judge who was
1026 not retained by the voters for the office for which the justice or judge was defeated until after
1027 the expiration of that term of office.

1028 (4) Judicial nominating commissions are exempt from the requirements of Title 52,
1029 Chapter 4, Open and Public Meetings Act, and Title 63, Chapter 46a, Utah Administrative
1030 Rulemaking Act.

1031 Section 20. Section **26-18-105** is amended to read:

1032 **26-18-105. Drug prior approval program.**

1033 Any drug prior approval program approved or implemented by the board shall meet the
1034 following conditions:

1035 (1) no drug may be placed on prior approval for other than medical reasons;

1036 (2) the board shall hold a public hearing at least 90 days prior to placing a drug on prior
1037 approval;

1038 (3) notwithstanding the provisions of Section [~~52-4-6~~] 52-4-202, the board shall
1039 provide not less than 30 days notice to the public before holding a public hearing under
1040 Subsection (2);

1041 (4) the board shall consider written and oral comments submitted by interested parties
1042 prior to or during the hearing held in accordance with Subsection (2);

1043 (5) the board shall provide evidence that placing a drug class on prior approval will not
1044 impede quality of recipient care and that the drug class is subject to clinical abuse or misuse;

1045 (6) no later than nine months after any drug class is placed on prior approval, it shall be
1046 reconsidered in a public hearing with notice as provided in Subsection (3);

1047 (7) the program shall provide either telephone or fax approval or denial at least
1048 Monday through Friday, within 24 hours after receipt of the prior approval request;

1049 (8) the program shall provide for the dispensing of at least a 72-hour supply of the drug
1050 in an emergency situation or on weekends;

1051 (9) the program may not be applied to prevent acceptable medical use for appropriate
1052 off-label indications; and

1053 (10) any drug class placed on prior approval shall receive a majority vote by the board
1054 for that placement, after meeting the requirements described in Subsections (1) through (10).

1055 Section 21. Section **26-33a-103** is amended to read:

1056 **26-33a-103. Committee membership -- Terms -- Chair -- Compensation.**

1057 (1) The Health Data Committee created by Section 26-1-7 shall be composed of 13
1058 members appointed by the governor with the consent of the Senate.

1059 (2) No more than seven members of the committee may be members of the same
1060 political party.

1061 (3) The appointed members of the committee shall be knowledgeable regarding the
1062 health care system and the characteristics and use of health data and shall be selected so that
1063 the committee at all times includes individuals who provide care.

1064 (4) The membership of the committee shall be:

1065 (a) one person employed by or otherwise associated with a hospital as defined by
1066 Section 26-21-2;

1067 (b) one physician, as defined in Section 58-67-102, licensed to practice in this state,
1068 who spends the majority of his time in the practice of medicine in this state;

1069 (c) one registered nurse licensed to practice in this state under Title 58, Chapter 31b,
1070 Nurse Practice Act;

1071 (d) three persons employed by or otherwise associated with a business that supplies
1072 health care insurance to its employees, at least one of whom represents an employer employing
1073 50 or fewer employees;

1074 (e) one person employed by or associated with a third-party payor that is not licensed
1075 under Title 31A, Chapter 8, Health Maintenance Organizations and Limited Health Plans;

1076 (f) two consumer representatives from organized consumer or employee associations;

1077 (g) one person broadly representative of the public interest;

1078 (h) one person employed by or associated with an organization that is licensed under
1079 Title 31A, Chapter 8, Health Maintenance Organizations and Limited Health Plans; and

1080 (i) two people representing public health.

1081 (5) (a) Except as required by Subsection (5)(b), as terms of current committee members

1082 expire, the governor shall appoint each new member or reappointed member to a four-year
1083 term.

1084 (b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the
1085 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
1086 committee members are staggered so that approximately half of the committee is appointed
1087 every two years.

1088 (c) Members may serve after their terms expire until replaced.

1089 (6) When a vacancy occurs in the membership for any reason, the replacement shall be
1090 appointed for the unexpired term.

1091 (7) Committee members shall annually elect a chair of the committee from among their
1092 membership.

1093 (8) The committee shall meet at least once during each calendar quarter. Meeting dates
1094 shall be set by the chair upon ten working days notice to the other members, or upon written
1095 request by at least four committee members with at least ten working days notice to other
1096 committee members.

1097 (9) Seven committee members constitute a quorum for the transaction of business.
1098 Action may not be taken except upon the affirmative vote of a majority of a quorum of the
1099 committee.

1100 (10) (a) (i) Members who are not government employees shall receive no
1101 compensation or benefits for their services, but may receive per diem and expenses incurred in
1102 the performance of the member's official duties at the rates established by the Division of
1103 Finance under Sections 63A-3-106 and 63A-3-107.

1104 (ii) Members may decline to receive per diem and expenses for their service.

1105 (b) (i) State government officer and employee members who do not receive salary, per
1106 diem, or expenses from their agency for their service may receive per diem and expenses
1107 incurred in the performance of their official duties from the committee at the rates established
1108 by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

1109 (ii) State government officer and employee members may decline to receive per diem
1110 and expenses for their service.

1111 (11) All meetings of the committee shall be open to the public, except that the
1112 committee may hold a closed meeting if the requirements of Sections [~~52-4-4~~ and ~~52-4-5~~]

1113 52-4-204, 52-4-205, and 52-4-206 are met.

1114 Section 22. Section **31A-33-104** is amended to read:

1115 **31A-33-104. Workers' Compensation Fund exempted.**

1116 (1) The Workers' Compensation Fund is exempt from the provisions of:

1117 (a) Title 52, Chapter 4, Open and Public Meetings Act;

1118 (b) Title 63, Chapter 2, Government Records Access and Management Act; and

1119 (c) Title 63A, Utah Administrative Services Code.

1120 (2) The board may specifically exempt the Workers' Compensation Fund from any

1121 provisions of:

1122 (a) Title 67, Chapter 19, Utah State Personnel Management Act; and

1123 (b) Title 63, Chapter 56, Utah Procurement Code.

1124 (3) The provisions of Title 63, Chapter 46b, Administrative Procedures Act, do not

1125 govern the initial determination of any person's eligibility for benefits under Title 34A, Chapter

1126 2, Workers' Compensation Act, and Title 34A, Chapter 3, Utah Occupational Disease Act.

1127 Section 23. Section **32A-1-106** is amended to read:

1128 **32A-1-106. Alcoholic Beverage Control Commission -- Membership -- Oaths and**
1129 **bond -- Per diem -- Offices -- Removal -- Meetings.**

1130 (1) The Alcoholic Beverage Control Commission shall act as a governing board over
1131 the Department of Alcoholic Beverage Control.

1132 (2) (a) The commission is composed of five part-time commissioners appointed by the
1133 governor with the consent of the Senate.

1134 (b) No more than three commissioners may be of the same political party.

1135 (3) (a) Except as required by Subsection (3)(b), as terms of current commission

1136 members expire, the governor shall appoint each new member or reappointed member to a

1137 four-year term.

1138 (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the

1139 time of appointment or reappointment, adjust the length of terms to ensure that the terms of

1140 commission members are staggered so that approximately half of the commission is appointed

1141 every two years.

1142 (4) When a vacancy occurs in the membership for any reason, the replacement shall be

1143 appointed for the unexpired term with the consent of the Senate.

1144 (5) Each commissioner shall qualify by taking the oath of office and by giving bond to
1145 the state for faithful performance of duties in an amount determined by the Division of
1146 Finance, and in a form approved by the attorney general. The bond premium shall be paid by
1147 the state.

1148 (6) (a) Members shall receive no compensation or benefits for their services, but may
1149 receive per diem and expenses incurred in the performance of the member's official duties at
1150 the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

1151 (b) Members may decline to receive per diem and expenses for their service.

1152 (7) The commission shall elect one of its members to serve as chair, another to serve as
1153 vice chair, and other commission officers as it considers advisable, all of whom shall serve at
1154 the pleasure of the commission. All members of the commission have equal voting rights on
1155 all commission matters when in attendance at a commission meeting. Three members of the
1156 commission is a quorum for conducting commission business. A majority vote of the quorum
1157 present is required for any action to be taken by the commission.

1158 (8) (a) The governor may remove any commissioner from office for cause after a
1159 public hearing conducted by the governor or by an impartial hearing examiner appointed by the
1160 governor to conduct the hearing. The commissioner shall receive written notice of the date,
1161 time, and place of the hearing along with the alleged grounds for the removal at least ten days
1162 before the hearing. The commissioner shall have the opportunity to attend the hearing, present
1163 witnesses and other evidence, and confront and cross examine witnesses.

1164 (b) Following the hearing, written findings of fact and conclusions of law shall be
1165 prepared by the person conducting the hearing and a copy served upon the commissioner. If
1166 the hearing is before a hearing examiner, the hearing examiner shall also issue a written
1167 recommendation to the governor.

1168 (c) The commissioner shall have five days to file written objections to the
1169 recommendation before the governor issues a final order. The governor's order shall be in
1170 writing and served upon the commissioner.

1171 (9) The commission shall meet at least monthly, but may hold other meetings at times
1172 and places as scheduled by the commission, by the chair, or by any three commissioners upon
1173 filing a written request for a meeting with the chair. Notice of the time and place of each
1174 meeting shall be given to each commissioner, and to the public in compliance with Title 52,

1175 Chapter 4, Open and Public Meetings Act. All commission meetings shall be open to the
1176 public, except those meetings or portions of meetings that are closed by the commission as
1177 authorized by Sections [~~52-4-4 and 52-4-5~~] 52-4-204 and 52-4-205.

1178 Section 24. Section **32A-1-119** is amended to read:

1179 **32A-1-119. Adjudicative proceedings -- Procedure.**

1180 (1) (a) The commission, director, and department may conduct adjudicative
1181 proceedings to inquire into any matter necessary and proper for the administration of this title
1182 and rules adopted under this title.

1183 (b) The commission, director, and department shall comply with the procedures and
1184 requirements of Title 63, Chapter 46b, Administrative Procedures Act, in their adjudicative
1185 proceedings.

1186 (c) Except where otherwise provided by law, all adjudicative proceedings shall be
1187 conducted in accordance with Title 52, Chapter 4, Open and Public Meetings Act.

1188 (d) All adjudicative proceedings concerning departmental personnel shall be conducted
1189 in accordance with Title 67, Chapter 19, Utah State Personnel Management Act. All hearings
1190 that are informational, fact gathering, and nonadversarial in nature shall be conducted in
1191 accordance with rules, policies, and procedures promulgated by the commission, director, or
1192 department.

1193 (2) (a) Disciplinary proceedings shall be conducted under the authority of the
1194 commission, which is responsible for rendering a final decision and order on any disciplinary
1195 matter.

1196 (b) (i) Nothing in this section precludes the commission from appointing necessary
1197 officers, including hearing examiners, from within or without the department, to administer the
1198 disciplinary hearing process.

1199 (ii) Officers and examiners appointed by the commission may conduct hearings on
1200 behalf of the commission and submit findings of fact, conclusions of law, and
1201 recommendations to the commission.

1202 (3) (a) The department may initiate a proceeding described in Subsection (3)(b) when
1203 the department receives:

1204 (i) a report from any government agency, peace officer, examiner, or investigator
1205 alleging that a permittee or licensee or any officer, employee, or agent of a permittee or

1206 licensee has violated this title or the rules of the commission;

1207 (ii) a final adjudication of criminal liability against a permittee or licensee or any
1208 officer, employee, or agent of a permittee or licensee based on an alleged violation of this title;
1209 or

1210 (iii) a final adjudication of civil liability under Title 32A, Chapter 14a, Alcoholic
1211 Beverage Liability, against a permittee or licensee or any officer, employee, or agent of a
1212 permittee or licensee based on an alleged violation of this title.

1213 (b) The department may initiate disciplinary proceedings if the department receives an
1214 item listed in Subsection (3)(a) to determine:

1215 (i) whether the permittee or licensee or any officer, employee, or agent of the permittee
1216 or licensee violated this title or rules of the commission; and

1217 (ii) if a violation is found, the appropriate sanction to be imposed.

1218 (c) For purposes of this Subsection (3), "final adjudication" means an adjudication for
1219 which a final unappealable judgment or order has been issued.

1220 (4) (a) Unless waived by the respondent, an adjudicative proceeding shall be held:

1221 (i) if required by law;

1222 (ii) before revoking or suspending any permit or license issued under this title; or

1223 (iii) before imposing a fine against:

1224 (A) a permittee;

1225 (B) a licensee; or

1226 (C) any officer, employee, or agent of a permittee or licensee.

1227 (b) Inexcusable failure of a respondent to appear at a scheduled evidentiary hearing
1228 after receiving proper notice is an admission of the charged violation.

1229 (c) The validity of any hearing is not affected by the failure of any person to attend or
1230 remain in attendance.

1231 (d) All evidentiary hearings shall be presided over by the commission or an appointed
1232 hearing examiner.

1233 (e) A hearing may be closed only after the commission or hearing examiner makes a
1234 written finding that the public interest in an open hearing is clearly outweighed by factors
1235 enumerated in the closure order.

1236 (f) The commission or its hearing examiner may administer oaths or affirmations, take

1237 evidence, take depositions within or without this state, require by subpoena from any place
1238 within this state the testimony of any person at a hearing, and the production of any books,
1239 records, papers, contracts, agreements, documents, or other evidence considered relevant to the
1240 inquiry.

1241 (i) Persons subpoenaed shall testify and produce any books, papers, documents, or
1242 tangible things as required in the subpoena.

1243 (ii) Any witness subpoenaed or called to testify or produce evidence who claims a
1244 privilege against self-incrimination may not be compelled to testify, but the commission or the
1245 hearing examiner shall file a written report with the county attorney or district attorney in the
1246 jurisdiction where the privilege was claimed or where the witness resides setting forth the
1247 circumstance of the claimed privilege.

1248 (iii) A person is not excused from obeying a subpoena without just cause. Any district
1249 court within the judicial district in which a person alleged to be guilty of willful contempt of
1250 court or refusal to obey a subpoena is found or resides, upon application by the party issuing
1251 the subpoena, may issue an order requiring the person to appear before the issuing party, and to
1252 produce documentary evidence if so ordered, or to give evidence regarding the matter in
1253 question. Failure to obey an order of the court may be punished by the court as contempt.

1254 (g) In all cases heard by a hearing examiner, the hearing examiner shall prepare a
1255 report to the commission. The report may not recommend a penalty more severe than that
1256 initially sought by the department in the notice of violation. A copy of the report shall be
1257 served upon the respective parties, and the respondent shall be given reasonable opportunity to
1258 file any written objections to the report before final commission action.

1259 (h) In all cases heard by the commission, it shall issue its final decision and order.

1260 (5) (a) The commission shall render a decision and issue a written order on any
1261 disciplinary action, and serve a copy on all parties.

1262 (b) Any order of the commission is considered final on the date the order becomes
1263 effective.

1264 (c) If the commission is satisfied that a permittee, licensee, or any officer, employee, or
1265 agent of a permittee or licensee has committed a violation of this title or the commission's
1266 rules, in accordance with Title 63, Chapter 46b, Administrative Procedures Act, the
1267 commission may:

- 1268 (i) suspend or revoke the permit or the license;
- 1269 (ii) impose a fine against:
 - 1270 (A) the permittee;
 - 1271 (B) the licensee; or
 - 1272 (C) any officer, employee, or agent of a permittee or licensee;
- 1273 (iii) assess the administrative costs of any hearing to the permittee or the licensee; or
- 1274 (iv) any combination of Subsections (5)(c)(i) through (iii).
- 1275 (d) (i) A fine imposed in accordance with this Subsection (5) may not exceed \$25,000
- 1276 in the aggregate for any single notice of agency action.
- 1277 (ii) The commission shall, by rule, establish a schedule of fines specifying the range of
- 1278 fines for each violation of this title or commission rules.
- 1279 (e) (i) If a permit or license is suspended under this Subsection (5), a sign provided by
- 1280 the department shall be prominently posted:
 - 1281 (A) during the suspension;
 - 1282 (B) by the permittee or licensee; and
 - 1283 (C) at the entrance of the premises of the permittee or licensee.
- 1284 (ii) The sign required by this Subsection (5)(e) shall:
 - 1285 (A) read "The Utah Alcoholic Beverage Control Commission has suspended the
 - 1286 alcoholic beverage license or permit of this establishment. Alcoholic beverages may not be
 - 1287 sold, served, furnished, or consumed on these premises during the period of suspension."; and
 - 1288 (B) include the dates of the suspension period.
- 1289 (iii) A permittee or licensee may not remove, alter, obscure, or destroy a sign required
- 1290 to be posted under this Subsection (5)(e) during the suspension period.
- 1291 (f) If the permit or license is revoked, the commission may order the revocation of any
- 1292 compliance bond posted by the permittee or licensee.
- 1293 (g) Any permittee or licensee whose permit or license is revoked may not reapply for a
- 1294 permit or license under this title for three years from the date the permit or license was revoked.
- 1295 (h) All costs assessed by the commission shall be transferred into the General Fund in
- 1296 accordance with Section 32A-1-113.
- 1297 (6) (a) In addition to any action taken against a permittee or licensee under this section,
- 1298 the department may initiate disciplinary action against an officer, employee, or agent of a

1299 permittee or licensee.

1300 (b) If any officer, employee, or agent is found to have violated this title, the
1301 commission may prohibit the officer, employee, or agent from serving, selling, distributing,
1302 manufacturing, wholesaling, warehousing, or handling alcoholic beverages in the course of
1303 employment with any permittee or licensee under this title for a period determined by the
1304 commission.

1305 (7) (a) The department may initiate a disciplinary action for an alleged violation of this
1306 title or the rules of the commission against:

1307 (i) a manufacturer, supplier, or importer of alcoholic beverages; or

1308 (ii) an officer, employee, agent, or representative of a person listed in Subsection
1309 (7)(a)(i).

1310 (b) (i) If the commission makes the finding described in Subsection (7)(b)(ii), the
1311 commission may, in addition to other penalties prescribed by this title, order:

1312 (A) the removal of the manufacturer's, supplier's, or importer's products from the
1313 department's sales list; and

1314 (B) a suspension of the department's purchase of the products described in Subsection
1315 (7)(b)(i)(A) for a period determined by the commission.

1316 (ii) The commission may take the action described in Subsection (7)(b)(i) if:

1317 (A) any manufacturer, supplier, or importer of liquor, wine, or heavy beer or its
1318 employee, agent, or representative violates any provision of this title; and

1319 (B) the manufacturer, supplier, or importer:

1320 (I) directly committed the violation; or

1321 (II) solicited, requested, commanded, encouraged, or intentionally aided another to
1322 engage in the violation.

1323 Section 25. Section **36-12-10** is amended to read:

1324 **36-12-10. Right of members to attend meetings -- Voting -- Subject to open and**
1325 **public meeting requirements.**

1326 Any member of the Legislature has the right to attend any meeting of the House,
1327 Senate, and Legislative Management Committees, the subcommittees of the Legislative
1328 Management Committee, or any interim committee and to present views on any subject under
1329 consideration, but no legislator has the right to vote on any decision of a committee of which

1330 he is not a member. All meetings of these committees shall be subject to Title 52, Chapter 4,
1331 ~~[regarding open and public meeting requirements]~~ Open and Public Meetings Act.

1332 Section 26. Section **52-4-101** is enacted to read:

1333 **CHAPTER 4. OPEN AND PUBLIC MEETINGS ACT**

1334 **Part 1. General Provisions**

1335 **52-4-101. Title.**

1336 This chapter is known as the "Open and Public Meetings Act."

1337 Section 27. Section **52-4-102**, which is renumbered from Section 52-4-1 is renumbered
1338 and amended to read:

1339 ~~[52-4-1].~~ **52-4-102. Declaration of public policy.**

1340 ~~[In enacting this chapter, the]~~ (1) The Legislature finds and declares that the state, its
1341 agencies and political subdivisions, exist to aid in the conduct of the people's business.

1342 (2) It is the intent of the ~~[law that their actions be taken openly and that their~~
1343 ~~deliberations be conducted openly.]~~ Legislature that the state, its agencies, and its political
1344 subdivisions:

1345 (a) take their actions openly; and

1346 (b) conduct their deliberations openly.

1347 Section 28. Section **52-4-103**, which is renumbered from Section 52-4-2 is renumbered
1348 and amended to read:

1349 ~~[52-4-2].~~ **52-4-103. Definitions.**

1350 As used in this chapter:

1351 (1) "Anchor location" means the physical location from which:

1352 (a) an electronic meeting originates; or

1353 (b) the participants are connected.

1354 ~~[(1)]~~ (2) "Convening" means the calling of a meeting of a public body by a person
1355 authorized to do so for the express purpose of discussing or acting upon a subject over which
1356 that public body has jurisdiction or advisory power.

1357 (3) "Electronic meeting" means a public meeting convened or conducted by means of a
1358 conference using electronic communications.

1359 ~~[(2)]~~ (4) (a) "Meeting" means the convening of a public body, with a quorum present,
1360 whether in person or by means of electronic ~~[equipment]~~ communications, for the purpose of

1361 discussing or acting upon a matter over which the public body has jurisdiction or advisory
1362 power.

1363 (b) "Meeting" does not mean:

1364 (i) a chance meeting; ~~or~~

1365 (ii) a social meeting; or

1366 ~~(ii)~~ (iii) the convening of a public body that has both legislative and executive
1367 responsibilities where no public funds are appropriated for expenditure during the time the
1368 public body is convened and:

1369 (A) the public body is convened solely for the discussion or implementation of
1370 administrative or operational matters for which no formal action by the public body is required;
1371 or

1372 (B) the public body is convened solely for the discussion or implementation of
1373 administrative or operational matters that would not come before the public body for
1374 discussion or action.

1375 (5) "Monitor" means to hear or observe, live, by audio or video equipment, all of the
1376 public statements of each member of the public body who is participating in a meeting.

1377 (6) "Participate" means the ability to communicate with all of the members of a public
1378 body, either verbally or electronically, so that each member of the public body can hear or
1379 observe the communication.

1380 ~~(3)~~ (7) (a) "Public body" means any administrative, advisory, executive, or legislative
1381 body of the state or its political subdivisions that:

1382 (i) consists of two or more persons;

1383 (ii) expends, disburses, or is supported in whole or in part by tax revenue; and

1384 (iii) is vested with the authority to make decisions regarding the public's business.

1385 (b) "Public body" does not include ~~any~~ a:

1386 (i) political party, political group, or political caucus; ~~nor~~ or

1387 (ii) ~~any~~ conference committee, rules committee, or sifting committee of the
1388 Legislature.

1389 (8) "Public hearing" means a portion of a meeting in which comments from the public
1390 will be accepted.

1391 (9) "Public statement" means a statement made in the ordinary course of business of

1392 the public body with the intent that all other members of the public body receive it.

1393 [~~(4)~~] (10) (a) "Quorum" means a simple majority of the membership of a public body,
1394 unless otherwise defined by applicable law.

1395 (b) "Quorum" does not include a meeting of two elected officials by themselves when
1396 no action, either formal or informal, is taken on a subject over which these elected officials
1397 have [~~jurisdiction~~] advisory power.

1398 (11) "Recording" means an audio, or an audio and video record of the proceedings of a
1399 meeting that can be used to review the proceedings of the meeting.

1400 Section 29. Section **52-4-201**, which is renumbered from Section 52-4-3 is renumbered
1401 and amended to read:

1402 **Part 2. Meetings**

1403 [~~52-4-3~~]. **52-4-201. Meetings open to the public -- Exceptions.**

1404 [~~Every~~] A meeting is open to the public unless closed [~~pursuant to Sections 52-4-4 and~~
1405 ~~52-4-5~~] under Sections 52-4-204, 52-4-205, and 52-4-206.

1406 Section 30. Section **52-4-202**, which is renumbered from Section 52-4-6 is renumbered
1407 and amended to read:

1408 [~~52-4-6~~]. **52-4-202. Public notice of meetings -- Emergency meetings.**

1409 (1) [~~Any~~] A public body shall give not less than 24 hours' public notice of each
1410 meeting including the meeting:

1411 (a) agenda;

1412 (b) date;

1413 (c) time; and

1414 (d) place.

1415 (2) (a) In addition to the requirements under Subsection (1), a public body which holds
1416 regular meetings that are scheduled in advance over the course of a year shall give public
1417 notice at least once each year of its annual meeting schedule as provided in this section.

1418 (b) The public notice under Subsection (2)(a) shall specify the date, time, and place of
1419 [~~such~~] the scheduled meetings.

1420 [~~(2) In addition to the notice requirements of Subsection (1) of this section, each public~~
1421 ~~body shall give not less than 24 hours' public notice of the agenda, date, time and place of each~~
1422 ~~of its meetings.]~~

- 1423 (3) Public notice shall be satisfied by:
- 1424 (a) posting written notice at the principal office of the public body, or if no ~~[such]~~
- 1425 principal office exists, at the building where the meeting is to be held; and
- 1426 (b) providing notice to:
- 1427 (i) at least one newspaper of general circulation within the geographic jurisdiction of
- 1428 the public body~~;~~; or ~~[to]~~
- 1429 (ii) a local media correspondent.
- 1430 (4) ~~[Public bodies are]~~ A public body is encouraged to develop and use electronic
- 1431 means to ~~[post]~~ provide notice ~~[in addition to those means listed in Subsection (3)]~~ of its
- 1432 meetings under Subsection (3)(b).
- 1433 (5) ~~[When]~~ (a) The notice requirement of Subsection (1) may be disregarded if:
- 1434 (i) because of unforeseen circumstances it is necessary for a public body to hold an
- 1435 emergency meeting to consider matters of an emergency or urgent nature~~;~~ ~~the notice~~
- 1436 ~~requirements of Subsection (2) may be disregarded~~; and
- 1437 (ii) the best notice practicable is given. ~~[No such]~~
- 1438 (b) An emergency meeting of a public body ~~[shall]~~ may not be held unless:
- 1439 (i) an attempt has been made to notify all of its members; and
- 1440 (ii) a majority ~~[votes in the affirmative to hold]~~ of its members approves holding the
- 1441 meeting.
- 1442 Section 31. Section **52-4-203**, which is renumbered from Section 52-4-7 is renumbered
- 1443 and amended to read:
- 1444 ~~[52-4-7].~~ **52-4-203. Minutes of open meetings -- Public records -- Recording**
- 1445 **of meetings.**
- 1446 (1) Written minutes or a ~~[digital or tape]~~ recording shall be kept of all open meetings.
- 1447 ~~[Such]~~ The minutes or ~~[a digital or tape]~~ recording shall include:
- 1448 (a) the date, time, and place of the meeting;
- 1449 (b) the names of members present and absent;
- 1450 (c) the substance of all matters proposed, discussed, or decided~~;~~ ~~and~~;
- 1451 (d) a record, by individual member, of votes taken;
- 1452 ~~[(d) the names of all citizens who appeared]~~
- 1453 (e) the name of each person who provided testimony and the substance in brief of their

1454 testimony; and

1455 ~~[(e)]~~ (f) any other information that any member requests be entered in the minutes or
1456 recording.

1457 ~~[(2) Except as provided in Section 52-4-7.5, written minutes or a digital or tape~~
1458 ~~recording shall be kept of all closed meetings. Such minutes or digital or tape recording shall~~
1459 ~~include:]~~

1460 ~~[(a) the date, time, and place of the meeting;]~~

1461 ~~[(b) the names of members present and absent; and]~~

1462 ~~[(c) the names of all others present except where such disclosure would infringe on the~~
1463 ~~confidence necessary to fulfill the original purpose of closing the meeting.]~~

1464 ~~[(3)]~~ (2) (a) The minutes and recordings of an open meeting are public records and
1465 shall be available within a reasonable time after the meeting. [A]

1466 (b) An open meeting record kept only by a ~~[digital or tape]~~ recording must be
1467 converted to written minutes within a reasonable time upon request.

1468 ~~[(4)]~~ (3) All or any part of an open meeting may be independently recorded by any
1469 person in attendance~~[-; provided;]~~ if the recording does not interfere with the conduct of the
1470 meeting.

1471 ~~[(5)]~~ (4) Minutes ~~[of meetings that are]~~ or recordings of an open meeting that is
1472 required to be retained permanently shall be maintained in or converted to a format that meets
1473 long-term records storage requirements.

1474 ~~[(6)]~~ (5) Written minutes ~~[or digital or tape]~~ and recordings ~~[shall be]~~ of open meetings
1475 are public records ~~[pursuant to]~~ under Title 63, Chapter 2, Government Records Access and
1476 Management Act, but only written minutes shall be evidence of the official action taken at
1477 ~~[such]~~ the meeting.

1478 Section 32. Section **52-4-204**, which is renumbered from Section 52-4-4 is renumbered
1479 and amended to read:

1480 ~~[52-4-4].~~ **52-4-204. Closed meeting held upon vote of members -- Business --**
1481 **Reasons for meeting recorded.**

1482 (1) A closed meeting may be held ~~[upon the affirmative vote of];~~

1483 (a) if a quorum is present; and

1484 (b) if two-thirds of the members of the public body present at an open meeting for

1485 which notice is given [~~pursuant to Section 52-4-6; provided, a quorum is present. No~~] under
 1486 Section 52-4-202 vote to approve closing the meeting.

1487 (2) A closed meeting is not allowed [~~except as to matters exempted under Section~~
 1488 ~~52-4-5; provided, no~~] unless each matter discussed in the closed meeting is permitted under
 1489 Section 52-4-205.

1490 (3) An ordinance, resolution, rule, regulation, contract, or appointment [~~shall~~] may not
 1491 be approved at a closed meeting. [~~The~~]

1492 (4) The following information shall be entered on the minutes of the open meeting at
 1493 which the closed meeting was approved:

1494 (a) the reason or reasons for holding [~~a~~] the closed meeting; and

1495 (b) the vote by name, of each member of the public body, either for or against the
 1496 [~~proposition~~] motion to hold [~~such a~~] the closed meeting[~~, cast by each member by name shall~~
 1497 ~~be entered on the minutes of the meeting~~].

1498 (5) Nothing in this chapter shall be construed to require any meeting to be closed to the
 1499 public.

1500 Section 33. Section **52-4-205**, which is renumbered from Section 52-4-5 is renumbered
 1501 and amended to read:

1502 [~~52-4-5~~]. **52-4-205. Purposes of closed meetings.**

1503 (1) [~~(a)~~] A closed meeting [~~may be held pursuant to Section 52-4-4 for any of the~~
 1504 ~~following purposes~~] described under Section 52-4-204 may only be held for:

1505 [~~(i)~~] (a) discussion of the character, professional competence, or physical or mental
 1506 health of an individual;

1507 [~~(ii)~~] (b) strategy sessions to discuss collective bargaining;

1508 [~~(iii)~~] (c) strategy sessions to discuss pending or reasonably imminent litigation;

1509 [~~(iv)~~] (d) strategy sessions to discuss the purchase, exchange, or lease of real property
 1510 [~~when~~] if public discussion of the transaction would:

1511 (i) disclose the appraisal or estimated value of the property under consideration; or

1512 (ii) prevent the public body from completing the transaction on the best possible terms;

1513 [~~(v)~~] (e) strategy sessions to discuss the sale of real property [~~when~~] if:

1514 [~~(A)~~] (i) public discussion of the transaction would;

1515 (A) disclose the appraisal or estimated value of the property under consideration; or

1516 (B) prevent the public body from completing the transaction on the best possible terms;
 1517 ~~[(B)]~~ (ii) the public body ~~[had]~~ previously ~~[given]~~ gave public notice that the property
 1518 would be offered for sale; and

1519 ~~[(C)]~~ (iii) the terms of the sale are publicly disclosed before the public body approves
 1520 the sale;

1521 ~~[(vi)]~~ (f) discussion regarding deployment of security personnel, devices, or systems;
 1522 ~~[(vii)]~~ (g) investigative proceedings regarding allegations of criminal misconduct; and
 1523 ~~[(viii)]~~ (h) discussion by a county legislative body of commercial information as
 1524 defined in Section 59-1-404.

1525 ~~[(b)]~~ (2) A public body may not interview a person applying to fill an elected position
 1526 in a closed meeting.

1527 ~~[(c) Nothing in this section may be construed to require any public body to approve the
 1528 purchase, sale, exchange, or lease of real property if that public body is not required to approve
 1529 the purchase, sale, exchange, or lease of real property under other laws.]~~

1530 ~~[(2) This chapter shall not apply to any chance meeting or a social meeting. No chance
 1531 meeting or social meeting shall be used to circumvent this chapter.]~~

1532 ~~[(3) This chapter shall not prohibit the removal of any person who willfully disrupts a
 1533 meeting to the extent that orderly conduct is seriously compromised.]~~

1534 Section 34. Section **52-4-206**, which is renumbered from Section 52-4-7.5 is
 1535 renumbered and amended to read:

1536 ~~[52-4-7.5].~~ **52-4-206. Record of closed meetings.**

1537 ~~[(1) If a public body closes a meeting to discuss the character, professional
 1538 competence, or physical or mental health of an individual under Subsection 52-4-5(1)(a)(i) or
 1539 to discuss the deployment of security personnel, devices, or systems under Subsection
 1540 52-4-5(1)(a)(vi), the person presiding shall sign a sworn statement affirming that the sole
 1541 purpose for closing the meeting was to discuss:]~~

1542 ~~[(a) the character, professional competence, or physical or mental health of an
 1543 individual; or]~~

1544 ~~[(b) the deployment of security personnel, devices, or systems:]~~

1545 ~~[(2) (a) If]~~ (1) Except as provided under Subsection (5), if a public body closes a
 1546 meeting under Subsection ~~[52-4-5(1) for any purpose other than to discuss the character,~~

1547 professional competence, or physical or mental health of an individual or to discuss the
1548 deployment of security personnel, devices, or systems] 52-4-205(1), the public body shall
1549 [either tape record]:

1550 (a) make a recording of the closed portion of the meeting; or

1551 (b) keep detailed written minutes that disclose the content of the closed portion of the
1552 meeting.

1553 [~~(b) (i) Tape recordings]~~

1554 (2) The minutes or recording of a closed meeting shall include:

1555 (a) the date, time, and place of the meeting;

1556 (b) the names of members present and absent; and

1557 (c) the names of all others present except where the disclosure would infringe on the
1558 confidentiality necessary to fulfill the original purpose of closing the meeting.

1559 (3) Minutes or recordings of a closed meeting that are required to be retained
1560 permanently shall be maintained in or converted to a format that meets long-term records
1561 storage requirements.

1562 (4) Both a recording and written minutes of closed meetings are protected records
1563 under Title 63, Chapter 2, Government Records Access and Management Act, [and any person
1564 who violates the provisions of Section 63-2-801 is subject to the criminal penalties contained
1565 in that section. (ii) Notwithstanding the provisions of Subsection 63-2-202(4)(c), tape
1566 recordings and written minutes of closed meetings, as protected] except that the records, may
1567 be disclosed [pursuant to] under a court order only as provided [in] under Section [52-4-10]
1568 52-4-304.

1569 (5) If a public body closes a meeting exclusively for the purposes described under
1570 Subsection 52-4-205(1)(a) or Subsection 52-4-205(1)(f):

1571 (a) the person presiding shall sign a sworn statement affirming that the sole purpose for
1572 closing the meeting was to discuss the purposes described under Subsection 52-4-205(1)(a) or
1573 Subsection 52-4-205(1)(f); and

1574 (b) the provisions of Subsection (1) of this section do not apply.

1575 Section 35. Section **52-4-207**, which is renumbered from Section 52-4-7.8 is
1576 renumbered and amended to read:

1577 [~~52-4-7.8~~]. **52-4-207. Electronic meetings -- Authorization -- Requirements.**

- 1578 ~~[(1) As used in this section:]~~
- 1579 ~~[(a) "Anchor location" means the physical location from which the electronic meeting~~
- 1580 ~~originates or from which the participants are connected.]~~
- 1581 ~~[(b) "Electronic meeting" means a public meeting convened or conducted by means of~~
- 1582 ~~a telephonic, telecommunications, or computer conference.]~~
- 1583 ~~[(c) "Electronic notice" means electronic mail or fax.]~~
- 1584 ~~[(d) "Monitor" means to:]~~
- 1585 ~~[(i) hear, live, by speaker, or by other equipment, all of the public statements of each~~
- 1586 ~~member of the public body who is participating in a meeting; or]~~
- 1587 ~~[(ii) see, by computer screen or other visual medium, all of the public statements of~~
- 1588 ~~each member of the public body who is participating in a meeting.]~~
- 1589 ~~[(e) "Participate" means the ability to communicate with all of the members of a public~~
- 1590 ~~body, either verbally or electronically, so that each member of the public body can hear or see~~
- 1591 ~~the communication.]~~
- 1592 ~~[(f) "Public hearing" means a meeting at which comments from the public will be~~
- 1593 ~~accepted.]~~
- 1594 ~~[(g) "Public statement" means a statement made in the ordinary course of business of~~
- 1595 ~~the public body with the intent that all other members of the public body receive it.]~~
- 1596 ~~[(2)] (1) A public body may~~[-by following the procedures and requirements of this~~~~
- 1597 ~~section;]~~ convene and conduct an electronic meeting in accordance with this section.
- 1598 ~~[(3) Each] (2) A public body [convening or conducting] that convenes or conducts an~~
- 1599 ~~electronic meeting shall:~~
- 1600 (a) give public notice of the meeting ~~[pursuant to]:~~
- 1601 (i) in accordance with Section [52-4-6 by:] 52-4-202; and
- 1602 ~~[(i) posting] (ii) post~~ written notice at the anchor location; ~~[and]~~
- 1603 ~~[(ii) providing written or electronic notice to:]~~
- 1604 ~~[(A) at least one newspaper of general circulation within the state; and]~~
- 1605 ~~[(B) to a local media correspondent;]~~
- 1606 (b) in addition to giving public notice required by Subsection ~~[(3)] (2)(a), provide:~~
- 1607 (i) notice of the electronic meeting to the members of the public body at least 24 hours
- 1608 before the meeting so that they may participate in and be counted as present for all purposes,

1609 including the determination that a quorum is present; and

1610 (ii) a description of how the members will be connected to the electronic meeting;

1611 (c) establish written procedures governing the electronic meeting at which one or more
1612 members of a public body are participating by means of a [~~telephonic or telecommunications~~
1613 ~~conference~~] conference using electronic communications;

1614 (d) establish one or more anchor locations for the public meeting, at least one of which
1615 is in the building and [~~city~~] political subdivision where the public body would normally meet if
1616 they were not holding an electronic meeting;

1617 (e) provide space and facilities at the anchor location so that interested persons and the
1618 public may attend and monitor the open portions of the meeting; and

1619 (f) if the meeting [~~is~~] includes a public hearing, provide space and facilities at the
1620 anchor location so that interested persons and the public may attend, monitor, and participate in
1621 the open portions of the meeting.

1622 [~~(4)~~] (3) Compliance with the provisions of this section by a public body constitutes
1623 full and complete compliance by the public body with the corresponding provisions of Sections
1624 [~~52-4-3 and 52-4-6~~] 52-4-201 and 52-4-202.

1625 Section 36. Section **52-4-208** is enacted to read:

1626 **52-4-208. Chance or social meetings.**

1627 (1) This chapter does not apply to any chance meeting or a social meeting.

1628 (2) A chance meeting or social meeting may not be used to circumvent the provisions
1629 of this chapter.

1630 Section 37. Section **52-4-301** is enacted to read:

1631 **Part 3. Enforcement**

1632 **52-4-301. Disruption of meetings.**

1633 This chapter does not prohibit the removal of any person from a meeting, if the person
1634 willfully disrupts the meeting to the extent that orderly conduct is seriously compromised.

1635 Section 38. Section **52-4-302**, which is renumbered from Section 52-4-8 is renumbered
1636 and amended to read:

1637 [~~52-4-8~~]. **52-4-302. Suit to void final action -- Limitation -- Exceptions.**

1638 (1) Any final action taken in violation of [~~Sections 52-4-3 and 52-4-6~~] Section
1639 52-4-201, 52-4-202, or 54-4-207 is voidable by a court of competent jurisdiction. [~~Suit~~]

1640 (2) Except as provided under Subsection (3), a suit to void final action shall be
1641 commenced within 90 days after the date of the action [~~except that with respect to any~~].

1642 (3) A suit to void final action concerning the issuance of bonds, notes, or other
1643 evidences of indebtedness [~~suit~~] shall be commenced within 30 days after the date of the
1644 action.

1645 Section 39. Section **52-4-303**, which is renumbered from Section 52-4-9 is renumbered
1646 and amended to read:

1647 ~~[52-4-9]~~. **52-4-303. Enforcement of chapter -- Suit to compel compliance.**

1648 (1) The attorney general and county attorneys of the state shall enforce this chapter.

1649 (2) A person denied any right under this chapter may commence suit in a court of
1650 competent jurisdiction to:

1651 (a) compel compliance with or enjoin violations of this chapter; or [~~to~~]

1652 (b) determine [its] the chapter's applicability to discussions or decisions of a public
1653 body.

1654 (3) The court may award reasonable attorney fees and court costs to a successful
1655 plaintiff.

1656 Section 40. Section **52-4-304**, which is renumbered from Section 52-4-10 is
1657 renumbered and amended to read:

1658 ~~[52-4-10]~~. **52-4-304. Action challenging closed meeting.**

1659 (1) Notwithstanding the procedure established [~~in~~] under Subsection 63-2-202(7), in
1660 any action brought under the authority of this chapter to challenge the legality of a closed
1661 meeting held by a public body, the court shall:

1662 (a) review the [~~tape~~] recording or written minutes of the closed meeting in camera; and

1663 (b) decide the legality of the closed meeting.

1664 (2) (a) If the judge determines that the public body did not violate [~~the law governing~~]
1665 Section 52-4-204, 52-4-205, or 52-4-206 regarding closed meetings, the judge shall dismiss the
1666 case without disclosing or revealing any information from the tape recording or minutes of the
1667 closed meeting.

1668 (b) If the judge determines that the public body violated [~~the law governing~~] Section
1669 52-4-204, 52-4-205, or 52-4-206 regarding closed meetings, the judge shall publicly disclose or
1670 reveal from the tape recordings or minutes of the closed meeting all information about the

1671 portion of the meeting that was illegally closed.

1672 Section 41. Section **53-1-105** is amended to read:

1673 **53-1-105. Rulemaking -- Adjudicative proceedings -- Meetings.**

1674 The commissioner and the department and its boards, councils, divisions, and offices
1675 shall comply with the procedures and requirements of:

1676 (1) Title 63, Chapter 46a, Utah Administrative Rulemaking Act, in their rulemaking;

1677 (2) Title 63, Chapter 46b, Administrative Procedures Act, in their adjudicative
1678 proceedings; and

1679 (3) Title 52, Chapter 4, Open and Public Meetings Act, in their meetings.

1680 Section 42. Section **53A-1a-511** is amended to read:

1681 **53A-1a-511. Waivers from state board rules -- Application of statutes and rules**
1682 **to charter schools.**

1683 (1) A charter school shall operate in accordance with its charter and is subject to Title
1684 53A, State System of Public Education, and other state laws applicable to public schools,
1685 except as otherwise provided in this part.

1686 (2) (a) A charter school or any other public school or school district may apply to the
1687 State Board of Education for a waiver of any state board rule that inhibits or hinders the school
1688 or the school district from accomplishing its mission or educational goals set out in its strategic
1689 plan or charter.

1690 (b) The state board may grant the waiver, unless:

1691 (i) the waiver would cause the school district or the school to be in violation of state or
1692 federal law; or

1693 (ii) the waiver would threaten the health, safety, or welfare of students in the district or
1694 at the school.

1695 (c) If the State Board of Education denies the waiver, the reason for the denial shall be
1696 provided in writing to the waiver applicant.

1697 (3) (a) Except as provided in Subsection (3)(b), State Board of Education rules
1698 governing the following do not apply to a charter school:

1699 (i) school libraries;

1700 (ii) required school administrative and supervisory services; and

1701 (iii) required expenditures for instructional supplies.

1702 (b) A charter school shall comply with rules implementing statutes that prescribe how
1703 state appropriations may be spent.

1704 (4) The following provisions of Title 53A, State System of Public Education, and rules
1705 adopted under those provisions, do not apply to a charter school:

1706 (a) Sections 53A-1a-108 and 53A-1a-108.5, requiring the establishment of a school
1707 community council and school improvement plan;

1708 (b) Sections 53A-3-413 and 53A-3-414, pertaining to the use of school buildings as
1709 civic centers;

1710 (c) Section 53A-3-420, requiring the use of activity disclosure statements;

1711 (d) Section 53A-12-207, requiring notification of intent to dispose of textbooks;

1712 (e) Section 53A-13-107, requiring annual presentations on adoption; and

1713 (f) Chapter 19, Part 1, Fiscal Procedures pertaining to fiscal procedures of school
1714 districts and local school boards.

1715 (5) For the purposes of Title 63, Chapter 56, Utah Procurement Code, a charter school
1716 shall be considered a local public procurement unit.

1717 (6) Each charter school shall be subject to:

1718 (a) Title 52, Chapter 4, Open and Public Meetings Act; and

1719 (b) Title 63, Chapter 2, Government Records Access and Management Act.

1720 (7) (a) The State Charter School Board shall, in concert with the charter schools, study
1721 existing state law and administrative rules for the purpose of determining from which laws and
1722 rules charter schools should be exempt.

1723 (b) (i) The State Charter School Board shall present recommendations for exemption to
1724 the State Board of Education for consideration.

1725 (ii) The State Board of Education shall consider the recommendations of the State
1726 Charter School Board and respond within 60 days.

1727 (c) Annually, the State Charter School Board shall report the results of its review of
1728 state laws and administrative rules, along with the responses received from the State Board of
1729 Education, to the Education Interim Committee by October 1.

1730 Section 43. Section **53A-14-103** is amended to read:

1731 **53A-14-103. Meetings -- Notice.**

1732 (1) The commission shall meet at the call of the state superintendent of public

1733 instruction or the superintendent's designee.

1734 (2) Notice of a meeting shall be given as required under Section [~~52-4-6~~] 52-4-202.

1735 Section 44. Section **53A-19-102** is amended to read:

1736 **53A-19-102. Local school boards budget procedures.**

1737 (1) Prior to June 22 of each year, each local school board shall adopt a budget and
1738 make appropriations for the next fiscal year. If the tax rate in the proposed budget exceeds the
1739 certified tax rate defined in Subsection 59-2-924 (2), the board shall comply with the Tax
1740 Increase Disclosure Act in adopting the budget.

1741 (2) Prior to the adoption of a budget containing a tax rate which does not exceed the
1742 certified tax rate, the board shall hold a public hearing on the proposed budget. In addition to
1743 complying with Title 52, Chapter 4, Open and Public Meetings Act, in regards to the hearing,
1744 the board shall do the following:

1745 (a) publish the required newspaper notice at least one week prior to the hearing; and

1746 (b) file a copy of the proposed budget with the board's business administrator for public
1747 inspection at least ten days prior to the hearing.

1748 (3) The board shall file a copy of the adopted budget with the state auditor and the
1749 State Board of Education.

1750 Section 45. Section **58-1-404** is amended to read:

1751 **58-1-404. Diversion -- Procedure.**

1752 (1) As used in this section, "diversion" means suspending action to discipline a
1753 licensee who is or could be charged in a Notice of Agency Action with certain offenses within
1754 the category of unprofessional or unlawful conduct on the condition that the licensee agrees to
1755 participate in an educational or rehabilitation program or fulfill some other condition.

1756 (2) (a) (i) The director may establish, as circumstances require, a diversion advisory
1757 committee for each occupation or profession or similar groups of occupations or professions
1758 licensed by the division.

1759 (ii) The committees shall assist the director in the administration of this section.

1760 (b) (i) Each committee shall consist of at least three licensees from the same or similar
1761 occupation or profession as the person whose conduct is the subject of the committee's
1762 consideration.

1763 (ii) The director shall appoint the members of a diversion advisory committee from

1764 nominations submitted by the corresponding board established for the same or similar
1765 occupation or profession under Section 58-1-201 or from other qualified nominees developed
1766 by or submitted to the division.

1767 (iii) Committee members may not serve concurrently as members of the corresponding
1768 board.

1769 (iv) Committee members shall serve voluntarily without remuneration.

1770 (v) The director may:

1771 (A) dissolve any diversion advisory committee;

1772 (B) remove or request the replacement of any member of a committee; and

1773 (C) establish any procedure that is necessary and proper for a committee's
1774 administration.

1775 (3) The director may, after consultation with the appropriate diversion advisory
1776 committee and by written agreement with the licensee, divert the licensee to a diversion
1777 program:

1778 (a) at any time after receipt by the division of a complaint against the licensee when no
1779 adjudicative proceeding has been commenced;

1780 (b) at any time prior to the conclusion of a hearing under Section 63-46b-8 when an
1781 adjudicative proceeding has been commenced against the licensee; or

1782 (c) after a self-referral by a licensee who is not the subject of a current investigation,
1783 complaint, or adjudicative proceeding.

1784 (4) (a) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
1785 the division shall define by rule the particular offenses within the category of unprofessional or
1786 unlawful conduct which may be subject to diversion.

1787 (b) A licensee may be eligible for a diversion program only once for the same or
1788 similar offense, whether the diversion program was in this state or another jurisdiction, and is
1789 not eligible if previously disciplined by the division, by a licensing agency of another state, or
1790 by a federal government agency for the same or a similar offense.

1791 (c) The term of a diversion agreement shall be five years or less, but may be extended
1792 for an additional period of time as agreed to by the parties in writing.

1793 (d) A decision by the director not to divert a licensee is not subject to appeal or judicial
1794 review.

- 1795 (5) A licensee may be represented by counsel:
- 1796 (a) during the negotiations for diversion;
- 1797 (b) at the time of the execution of the diversion agreement; and
- 1798 (c) at any hearing before the director relating to a diversion program.
- 1799 (6) (a) As used in this section, "diversion agreement" means a written agreement
- 1800 between the division, through its director, and the licensee, which specifies formal terms and
- 1801 conditions the licensee must fulfill in order to comply with the diversion program.
- 1802 (b) (i) A diversion agreement shall contain a full detailed statement of the requirements
- 1803 agreed to by the licensee and a full detailed stipulation of the facts upon which the diversion
- 1804 agreement is premised.
- 1805 (ii) The facts stipulated in the diversion agreement shall constitute binding admissions
- 1806 of the licensee:
- 1807 (A) in any proceeding under Subsection (6)(c) or (6)(d) to terminate the diversion
- 1808 agreement and impose disciplinary sanctions against the licensee; and
- 1809 (B) in any disciplinary proceeding based on unprofessional or unlawful conduct that is
- 1810 not the basis of the diversion agreement.
- 1811 (c) The diversion agreement shall provide that if the licensee makes an intentional
- 1812 material misrepresentation of fact in the stipulation of facts contained in the diversion
- 1813 agreement, the director shall initiate the procedures set forth in Subsection (13) to terminate the
- 1814 diversion agreement and issue an order of license revocation.
- 1815 (d) (i) The diversion agreement shall provide that if the licensee fails to comply with its
- 1816 terms, the director shall initiate the procedures set forth in Subsection (14) to terminate the
- 1817 diversion agreement and issue an order of license suspension, which shall be stayed in favor of
- 1818 an order of probation having the same terms as those which comprised the diversion
- 1819 agreement.
- 1820 (ii) The division may waive and not include as probationary requirements any terms of
- 1821 the diversion agreement it does not consider necessary to protect the public.
- 1822 (iii) The term of the order of probation shall be as provided in Subsection (14)(c)(ii).
- 1823 (e) The division director may not approve a diversion agreement unless the licensee, as
- 1824 part of the diversion agreement:
- 1825 (i) knowingly and intelligently waives the right to a hearing under Title 63, Chapter

1826 46b, Administrative Procedures Act, for the conduct upon which the diversion agreement was
1827 premised;

1828 (ii) agrees to be subject to the procedures and remedies set forth in this section;

1829 (iii) acknowledges an understanding of the consequences of making an intentional
1830 misrepresentation of fact in the stipulation of facts contained in the diversion agreement; and

1831 (iv) acknowledges an understanding of the consequences of failing to comply with the
1832 terms of the diversion agreement.

1833 (7) (a) If the division and the licensee enter into a diversion agreement after the
1834 division has commenced an adjudicative proceeding against the licensee, the director shall stay
1835 that proceeding pending completion of the diversion agreement.

1836 (b) The order staying the adjudicative proceeding shall be filed in that proceeding and
1837 may reference the diversion agreement.

1838 (8) (a) Upon successful completion of a diversion agreement, the director shall dismiss
1839 any charges under the director's jurisdiction of unprofessional or unlawful conduct that were
1840 filed against the licensee.

1841 (b) Whether or not an adjudicative proceeding had been commenced against the
1842 licensee, the division may not thereafter subject the licensee to disciplinary action for the
1843 conduct which formed the basis of the completed diversion agreement.

1844 (c) Neither the execution of a diversion agreement nor the dismissal of filed charges
1845 constitute disciplinary action, and no report of either may be made to disciplinary databases.

1846 (d) The division may consider the completion of a diversion program and the contents
1847 of the diversion agreement in determining the appropriate disciplinary action if the licensee is
1848 charged in the future with the same or similar conduct.

1849 (e) The order of dismissal shall be filed in the adjudicative proceeding in which the
1850 misconduct was charged and may reference the diversion agreement.

1851 (9) (a) Acceptance of the licensee into diversion does not preclude the division from
1852 investigating or continuing to investigate the licensee for any unlawful or unprofessional
1853 conduct committed before, during, or after participation in the diversion program.

1854 (b) Acceptance of the licensee into diversion does not preclude the division from
1855 taking disciplinary action or continuing to take disciplinary action against the licensee for
1856 unlawful or unprofessional conduct committed before, during, or after participation in the

1857 diversion program, except for that conduct which formed the basis for the diversion agreement.

1858 (c) Any licensee terminated from the diversion program for failure to comply with the
1859 diversion agreement is subject to disciplinary action by the division for acts committed before,
1860 during, and after participation in the diversion program, including violations identified in the
1861 diversion agreement.

1862 (10) The classification, retention, and disclosure of records relating to a licensee's
1863 participation in the diversion program is governed by Title 63, Chapter 2, Government Records
1864 Access and Management Act, except that any provision in the diversion agreement which
1865 addresses access to or release of diversion records regarding the licensee shall govern the
1866 access to and release of those records.

1867 (11) Notwithstanding any other provision of this section, the fact that the licensee
1868 completed a diversion program and the contents of the diversion agreement itself may be
1869 considered by the division in determining the appropriate disciplinary action if the licensee is
1870 charged in the future with the same or similar conduct.

1871 (12) Meetings regarding the diversion program are not subject to Title 52, Chapter 4,
1872 Open and Public Meetings Act.

1873 (13) (a) If, during the course of the diversion agreement, information is brought to the
1874 attention of the director that the licensee made an intentional material misrepresentation of fact
1875 in the stipulation of facts contained in the diversion agreement, the director shall cause to be
1876 served upon the licensee an order to show cause specifying the information relied upon by the
1877 director and setting a time and place for hearing to determine whether or not the licensee made
1878 the intentional material misrepresentation of fact and whether the agreement should be
1879 terminated on that ground.

1880 (b) Proceedings to terminate a diversion agreement on the grounds that the licensee
1881 made an intentional material misrepresentation of fact in the stipulation of facts contained in
1882 the diversion agreement and to issue an order of license revocation shall comply with Title 63,
1883 Chapter 46b, Administrative Procedures Act, except as follows:

1884 (i) the notice of agency action shall be in the form of an order to show cause, which
1885 shall contain all of the information specified in Subsection 63-46b-3(2), except a statement that
1886 a written response to the order to show cause is required;

1887 (ii) no written response to the order to show cause is required;

1888 (iii) discovery is prohibited, but the division may issue subpoenas or other orders to
1889 compel production of necessary evidence on behalf of either party and all parties shall have
1890 access to information contained in the division's diversion file to the extent permitted by law;

1891 (iv) the hearing shall be held only after timely notice to all parties; and

1892 (v) any agency review or reconsideration of an order terminating a diversion agreement
1893 or of an order of license revocation pursuant to this Subsection (13) shall be limited to the
1894 division director's findings of fact, conclusions of law, and order which arose out of the order
1895 to show cause proceeding.

1896 (c) Upon finding the licensee made an intentional material misrepresentation of fact in
1897 the stipulation of facts contained in the diversion agreement and that terminating the agreement
1898 is in the best interest of the public, and issuing an order to that effect, the director shall issue an
1899 order of license revocation, revoking the licensee's professional license.

1900 (d) The order terminating the diversion agreement and the order of license revocation
1901 shall include findings of fact and conclusions of law as determined by the director following
1902 the hearing or as otherwise stipulated and agreed to by the parties.

1903 (e) If the diversion agreement being terminated was entered into after the division had
1904 commenced an adjudicative proceeding against the licensee, that adjudicative proceeding shall
1905 be considered to be merged into the order of license revocation and it may not constitute a basis
1906 for any separate disciplinary action against the licensee.

1907 (f) The order terminating the diversion agreement and the order of license revocation
1908 shall notify the licensee of the right to request agency review or reconsideration.

1909 (14) (a) If, during the course of the diversion agreement, information is brought to the
1910 attention of the director that the licensee has violated the diversion agreement and if it appears
1911 in the best interest of the public to proceed with charges, the director, after consultation with
1912 the diversion advisory committee, shall cause to be served upon the licensee an order to show
1913 cause specifying the facts relied upon by the director and setting a time and place for hearing to
1914 determine whether or not the licensee has violated the diversion agreement and whether the
1915 agreement should be terminated.

1916 (b) Proceedings to terminate a diversion agreement and to issue an order of license
1917 suspension and probation, and proceedings to terminate the probation and lift the stay of a
1918 license suspension, shall comply with Title 63, Chapter 46b, Administrative Procedures Act,

1919 except as follows:

1920 (i) the notice of agency action shall be in the form of an order to show cause, which
1921 shall contain all of the information specified in Subsection 63-46b-3(2), except a statement that
1922 a written response to the order to show cause is required;

1923 (ii) no written response to the order to show cause shall be required;

1924 (iii) discovery is prohibited, but the division may issue subpoenas or other orders to
1925 compel production of necessary evidence on behalf of either party and all parties shall have
1926 access to information contained in the division's diversion file to the extent permitted by law;

1927 (iv) the hearing shall be held only after timely notice to all parties; and

1928 (v) any agency review or reconsideration of an order terminating a diversion agreement
1929 or of an order of license suspension and probation pursuant to this Subsection (14) shall be
1930 limited to the division director's findings of fact, conclusions of law, and order which arose out
1931 of the order to show cause proceeding.

1932 (c) (i) Upon finding the licensee has violated the diversion agreement and that
1933 terminating the agreement is in the best interest of the public, and issuing an order to that
1934 effect, the director shall issue an order of license suspension, suspending the licensee's
1935 professional license, but shall stay that suspension in favor of an order of probation, consisting
1936 of the same terms as those which comprised the diversion agreement.

1937 (ii) The period of probation shall be the time period which remained under the
1938 diversion agreement, or five years from the date of the order of license suspension and
1939 probation, whichever is longer, unless otherwise agreed by the parties.

1940 (iii) The period of probation is tolled during any time in which the licensee does not
1941 have an active license in the state.

1942 (d) (i) The order terminating the diversion agreement and the order of license
1943 suspension and probation shall include findings of fact and conclusions of law as determined
1944 by the director following the hearing or as otherwise stipulated and agreed to by the parties.

1945 (ii) The findings of fact may include those facts to which the licensee stipulated in the
1946 diversion agreement and any additional facts as the director may determine in the course of the
1947 hearing.

1948 (e) If the diversion agreement being terminated was entered into after the division had
1949 commenced an adjudicative proceeding against the licensee, that adjudicative proceeding shall

1950 be considered to be merged into the order of license suspension and probation and it may not
1951 constitute a basis for any separate disciplinary action against the licensee.

1952 (f) The order terminating the diversion agreement and the order of license suspension
1953 and probation shall notify the licensee of the right to request agency review or reconsideration.

1954 (g) (i) The terms and conditions of the order of license suspension and probation may
1955 be amended by order of the director, pursuant to motion or stipulation of the parties.

1956 (ii) The order of the director on the motion shall not be subject to agency review, but is
1957 subject to agency reconsideration under Section 63-46b-13.

1958 (h) (i) If, during the course of probation, the director has reason to believe the licensee
1959 has violated the order of suspension and probation, the director shall cause to be served upon
1960 the licensee an order to show cause why the probation should not be terminated and the stay of
1961 suspension lifted.

1962 (ii) The order to show cause shall specify the facts relied upon by the director and shall
1963 set a time and place for hearing before the director to determine whether or not the licensee has
1964 violated the order of suspension and probation and whether that order should be terminated and
1965 the stay of suspension lifted.

1966 (15) (a) Nothing in this section precludes the division from issuing an emergency order
1967 pursuant to Section 63-46b-20.

1968 (b) If the division issues an emergency order against a licensee who is subject to a
1969 diversion agreement with the division, that diversion agreement shall be immediately and
1970 automatically terminated upon the issuance of the emergency order, without compliance with
1971 the provisions of Title 63, Chapter 46b, Administrative Procedures Act.

1972 (c) (i) A licensee whose diversion agreement has been terminated pursuant to
1973 Subsection (15)(b) is entitled, upon request, to a posttermination hearing to challenge the
1974 termination of the diversion agreement.

1975 (ii) The request shall be considered a request for agency action and shall comply with
1976 the requirements of Subsection 63-46b-3(3).

1977 (iii) The division shall uphold the termination of the diversion agreement if it finds
1978 that:

1979 (A) the licensee violated the diversion agreement; and

1980 (B) it is in the best interest of the public to terminate the diversion agreement.

1981 (16) The administrative statute of limitations for taking disciplinary action described in
1982 Subsection 58-1-401(5) shall be tolled during a diversion program.

1983 Section 46. Section **62A-4a-207** is amended to read:

1984 **62A-4a-207. Legislative Oversight Panel -- Responsibilities.**

1985 (1) (a) There is created the Child Welfare Legislative Oversight Panel composed of the
1986 following members:

1987 (i) two members of the Senate, one from the majority party and one from the minority
1988 party, appointed by the president of the Senate; and

1989 (ii) three members of the House of Representatives, two from the majority party and
1990 one from the minority party, appointed by the speaker of the House of Representatives.

1991 (b) Members of the panel shall serve for two-year terms, or until their successors are
1992 appointed.

1993 (c) A vacancy exists whenever a member ceases to be a member of the Legislature, or
1994 when a member resigns from the panel. Vacancies shall be filled by the appointing authority,
1995 and the replacement shall fill the unexpired term.

1996 (2) The president of the Senate shall designate one of the senators appointed to the
1997 panel under Subsection (1) as the Senate chair of the panel. The speaker of the House of
1998 Representatives shall designate one of the representatives appointed to the panel under
1999 Subsection (1) as the House chair of the panel.

2000 (3) The panel shall follow the interim committee rules established by the Legislature.

2001 (4) The panel shall:

2002 (a) examine and observe the process and execution of laws governing the child welfare
2003 system by the executive branch and the judicial branch;

2004 (b) upon request, receive testimony from the public, the juvenile court, and from all
2005 state agencies involved with the child welfare system including, but not limited to, the division,
2006 other offices and agencies within the department, the attorney general's office, the Office of the
2007 Guardian Ad Litem Director, and school districts;

2008 (c) before October 1, 2002, and before October 1 of each year thereafter receive reports
2009 from the division, the attorney general, and the judicial branch identifying the cases not in
2010 compliance with the time limits established in Section 78-3a-308, regarding pretrial and
2011 adjudication hearings, Section 78-3a-311, regarding dispositional hearings and reunification

2012 services, and Section 78-3a-312, regarding permanency hearings and petitions for termination,
2013 and the reasons for the noncompliance;

2014 (d) receive recommendations from, and make recommendations to the governor, the
2015 Legislature, the attorney general, the division, the Office of the Guardian Ad Litem Director,
2016 the juvenile court, and the public;

2017 (e) (i) receive reports from the executive branch and the judicial branch on budgetary
2018 issues impacting the child welfare system; and

2019 (ii) recommend, as it considers advisable, budgetary proposals to the Health and
2020 Human Services Joint Appropriations Subcommittee, the Executive Offices and Criminal
2021 Justice Appropriations Subcommittee, and the Executive Appropriations Committee, which
2022 recommendation should be made before December 1 of each year;

2023 (f) study and recommend proposed changes to laws governing the child welfare
2024 system;

2025 (g) study actions the state can take to preserve, unify, and strengthen the child's family
2026 ties whenever possible in the child's best interest, including recognizing the constitutional
2027 rights and claims of parents whenever those family ties are severed or infringed;

2028 (h) perform such other duties related to the oversight of the child welfare system as the
2029 panel considers appropriate; and

2030 (i) annually report its findings and recommendations to the president of the Senate, the
2031 speaker of the House of Representatives, the Health and Human Services Interim Committee,
2032 and the Judiciary Interim Committee.

2033 (5) (a) The panel has authority to review and discuss individual cases.

2034 (b) When an individual case is discussed, the panel's meeting may be closed pursuant
2035 to Title 52, Chapter 4, Open and Public Meetings Act.

2036 (c) When discussing an individual case, the panel shall make reasonable efforts to
2037 identify and consider the concerns of all parties to the case.

2038 (6) (a) The panel has authority to make recommendations to the Legislature, the
2039 governor, the Board of Juvenile Court Judges, the division, and any other statutorily created
2040 entity related to the policies and procedures of the child welfare system. The panel does not
2041 have authority to make recommendations to the court, the division, or any other public or
2042 private entity regarding the disposition of any individual case.

2043 (b) The panel may hold public hearings, as it considers advisable, in various locations
2044 within the state in order to afford all interested persons an opportunity to appear and present
2045 their views regarding the child welfare system in this state.

2046 (7) (a) All records of the panel regarding individual cases shall be classified private,
2047 and may be disclosed only in accordance with federal law and the provisions of Title 63,
2048 Chapter 2, Government Records Access and Management Act.

2049 (b) The panel shall have access to all of the division's records, including those
2050 regarding individual cases. In accordance with Title 63, Chapter 2, Government Records
2051 Access Management Act, all documents and information received by the panel shall maintain
2052 the same classification that was designated by the division.

2053 (8) In order to accomplish its oversight functions, the panel has:

2054 (a) all powers granted to legislative interim committees in Section 36-12-11; and

2055 (b) legislative subpoena powers under Title 36, Chapter 14, Legislative Subpoena
2056 Powers.

2057 (9) Members of the panel shall receive salary and expenses in accordance with Section
2058 36-2-2.

2059 (10) (a) The Office of Legislative Research and General Counsel shall provide staff
2060 support to the panel.

2061 (b) The panel is authorized to employ additional professional assistance and other staff
2062 members as it considers necessary and appropriate.

2063 Section 47. Section **63-2-301** is amended to read:

2064 **63-2-301. Records that must be disclosed.**

2065 (1) The following records are public except to the extent they contain information
2066 expressly permitted to be treated confidentially under the provisions of Subsections
2067 63-2-201(3)(b) and (6)(a):

2068 (a) laws;

2069 (b) names, gender, gross compensation, job titles, job descriptions, business addresses,
2070 business telephone numbers, number of hours worked per pay period, dates of employment,
2071 and relevant education, previous employment, and similar job qualifications of the
2072 governmental entity's former and present employees and officers excluding:

2073 (i) undercover law enforcement personnel; and

2074 (ii) investigative personnel if disclosure could reasonably be expected to impair the
2075 effectiveness of investigations or endanger any individual's safety;

2076 (c) final opinions, including concurring and dissenting opinions, and orders that are
2077 made by a governmental entity in an administrative, adjudicative, or judicial proceeding except
2078 that if the proceedings were properly closed to the public, the opinion and order may be
2079 withheld to the extent that they contain information that is private, controlled, or protected;

2080 (d) final interpretations of statutes or rules by a governmental entity unless classified as
2081 protected as provided in Subsections 63-2-304(16), (17), and (18);

2082 (e) information contained in or compiled from a transcript, minutes, or report of the
2083 open portions of a meeting of a governmental entity as provided by Title 52, Chapter 4, Open
2084 and Public Meetings Act, including the records of all votes of each member of the
2085 governmental entity;

2086 (f) judicial records unless a court orders the records to be restricted under the rules of
2087 civil or criminal procedure or unless the records are private under this chapter;

2088 (g) unless otherwise classified as private under Section 63-2-302.5, records or parts of
2089 records filed with or maintained by county recorders, clerks, treasurers, surveyors, zoning
2090 commissions, the Division of Forestry, Fire and State Lands, the School and Institutional Trust
2091 Lands Administration, the Division of Oil, Gas and Mining, the Division of Water Rights, or
2092 other governmental entities that give public notice of:

2093 (i) titles or encumbrances to real property;

2094 (ii) restrictions on the use of real property;

2095 (iii) the capacity of persons to take or convey title to real property; or

2096 (iv) tax status for real and personal property;

2097 (h) records of the Department of Commerce that evidence incorporations, mergers,
2098 name changes, and uniform commercial code filings;

2099 (i) data on individuals that would otherwise be private under this chapter if the
2100 individual who is the subject of the record has given the governmental entity written
2101 permission to make the records available to the public;

2102 (j) documentation of the compensation that a governmental entity pays to a contractor
2103 or private provider;

2104 (k) summary data; and

2105 (1) voter registration records, including an individual's voting history, except for those
2106 parts of the record that are classified as private in Subsection 63-2-302(1)(i).

2107 (2) The following records are normally public, but to the extent that a record is
2108 expressly exempt from disclosure, access may be restricted under Subsection 63-2-201(3)(b),
2109 Section 63-2-302, 63-2-303, or 63-2-304:

2110 (a) administrative staff manuals, instructions to staff, and statements of policy;

2111 (b) records documenting a contractor's or private provider's compliance with the terms
2112 of a contract with a governmental entity;

2113 (c) records documenting the services provided by a contractor or a private provider to
2114 the extent the records would be public if prepared by the governmental entity;

2115 (d) contracts entered into by a governmental entity;

2116 (e) any account, voucher, or contract that deals with the receipt or expenditure of funds
2117 by a governmental entity;

2118 (f) records relating to government assistance or incentives publicly disclosed,
2119 contracted for, or given by a governmental entity, encouraging a person to expand or relocate a
2120 business in Utah, except as provided in Subsection 63-2-304(35);

2121 (g) chronological logs and initial contact reports;

2122 (h) correspondence by and with a governmental entity in which the governmental entity
2123 determines or states an opinion upon the rights of the state, a political subdivision, the public,
2124 or any person;

2125 (i) empirical data contained in drafts if:

2126 (i) the empirical data is not reasonably available to the requester elsewhere in similar
2127 form; and

2128 (ii) the governmental entity is given a reasonable opportunity to correct any errors or
2129 make nonsubstantive changes before release;

2130 (j) drafts that are circulated to anyone other than:

2131 (i) a governmental entity;

2132 (ii) a political subdivision;

2133 (iii) a federal agency if the governmental entity and the federal agency are jointly
2134 responsible for implementation of a program or project that has been legislatively approved;

2135 (iv) a government-managed corporation; or

- 2136 (v) a contractor or private provider;
- 2137 (k) drafts that have never been finalized but were relied upon by the governmental
- 2138 entity in carrying out action or policy;
- 2139 (l) original data in a computer program if the governmental entity chooses not to
- 2140 disclose the program;
- 2141 (m) arrest warrants after issuance, except that, for good cause, a court may order
- 2142 restricted access to arrest warrants prior to service;
- 2143 (n) search warrants after execution and filing of the return, except that a court, for good
- 2144 cause, may order restricted access to search warrants prior to trial;
- 2145 (o) records that would disclose information relating to formal charges or disciplinary
- 2146 actions against a past or present governmental entity employee if:
- 2147 (i) the disciplinary action has been completed and all time periods for administrative
- 2148 appeal have expired; and
- 2149 (ii) the charges on which the disciplinary action was based were sustained;
- 2150 (p) records maintained by the Division of Forestry, Fire and State Lands, the School
- 2151 and Institutional Trust Lands Administration, or the Division of Oil, Gas and Mining that
- 2152 evidence mineral production on government lands;
- 2153 (q) final audit reports;
- 2154 (r) occupational and professional licenses;
- 2155 (s) business licenses; and
- 2156 (t) a notice of violation, a notice of agency action under Section 63-46b-3, or similar
- 2157 records used to initiate proceedings for discipline or sanctions against persons regulated by a
- 2158 governmental entity, but not including records that initiate employee discipline.
- 2159 (3) The list of public records in this section is not exhaustive and should not be used to
- 2160 limit access to records.

2161 Section 48. Section **63-2-304** is amended to read:

2162 **63-2-304. Protected records.**

2163 The following records are protected if properly classified by a governmental entity:

- 2164 (1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret
- 2165 has provided the governmental entity with the information specified in Section 63-2-308;
- 2166 (2) commercial information or nonindividual financial information obtained from a

2167 person if:

2168 (a) disclosure of the information could reasonably be expected to result in unfair
2169 competitive injury to the person submitting the information or would impair the ability of the
2170 governmental entity to obtain necessary information in the future;

2171 (b) the person submitting the information has a greater interest in prohibiting access
2172 than the public in obtaining access; and

2173 (c) the person submitting the information has provided the governmental entity with
2174 the information specified in Section 63-2-308;

2175 (3) commercial or financial information acquired or prepared by a governmental entity
2176 to the extent that disclosure would lead to financial speculations in currencies, securities, or
2177 commodities that will interfere with a planned transaction by the governmental entity or cause
2178 substantial financial injury to the governmental entity or state economy;

2179 (4) records the disclosure of which could cause commercial injury to, or confer a
2180 competitive advantage upon a potential or actual competitor of, a commercial project entity as
2181 defined in Subsection 11-13-103(4);

2182 (5) test questions and answers to be used in future license, certification, registration,
2183 employment, or academic examinations;

2184 (6) records the disclosure of which would impair governmental procurement
2185 proceedings or give an unfair advantage to any person proposing to enter into a contract or
2186 agreement with a governmental entity, except that this Subsection (6) does not restrict the right
2187 of a person to see bids submitted to or by a governmental entity after bidding has closed;

2188 (7) records that would identify real property or the appraisal or estimated value of real
2189 or personal property, including intellectual property, under consideration for public acquisition
2190 before any rights to the property are acquired unless:

2191 (a) public interest in obtaining access to the information outweighs the governmental
2192 entity's need to acquire the property on the best terms possible;

2193 (b) the information has already been disclosed to persons not employed by or under a
2194 duty of confidentiality to the entity;

2195 (c) in the case of records that would identify property, potential sellers of the described
2196 property have already learned of the governmental entity's plans to acquire the property;

2197 (d) in the case of records that would identify the appraisal or estimated value of

2198 property, the potential sellers have already learned of the governmental entity's estimated value
2199 of the property; or

2200 (e) the property under consideration for public acquisition is a single family residence
2201 and the governmental entity seeking to acquire the property has initiated negotiations to acquire
2202 the property as required under Section 78-34-4.5;

2203 (8) records prepared in contemplation of sale, exchange, lease, rental, or other
2204 compensated transaction of real or personal property including intellectual property, which, if
2205 disclosed prior to completion of the transaction, would reveal the appraisal or estimated value
2206 of the subject property, unless:

2207 (a) the public interest in access outweighs the interests in restricting access, including
2208 the governmental entity's interest in maximizing the financial benefit of the transaction; or

2209 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of
2210 the value of the subject property have already been disclosed to persons not employed by or
2211 under a duty of confidentiality to the entity;

2212 (9) records created or maintained for civil, criminal, or administrative enforcement
2213 purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if
2214 release of the records:

2215 (a) reasonably could be expected to interfere with investigations undertaken for
2216 enforcement, discipline, licensing, certification, or registration purposes;

2217 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement
2218 proceedings;

2219 (c) would create a danger of depriving a person of a right to a fair trial or impartial
2220 hearing;

2221 (d) reasonably could be expected to disclose the identity of a source who is not
2222 generally known outside of government and, in the case of a record compiled in the course of
2223 an investigation, disclose information furnished by a source not generally known outside of
2224 government if disclosure would compromise the source; or

2225 (e) reasonably could be expected to disclose investigative or audit techniques,
2226 procedures, policies, or orders not generally known outside of government if disclosure would
2227 interfere with enforcement or audit efforts;

2228 (10) records the disclosure of which would jeopardize the life or safety of an

2229 individual;

2230 (11) records the disclosure of which would jeopardize the security of governmental
2231 property, governmental programs, or governmental recordkeeping systems from damage, theft,
2232 or other appropriation or use contrary to law or public policy;

2233 (12) records that, if disclosed, would jeopardize the security or safety of a correctional
2234 facility, or records relating to incarceration, treatment, probation, or parole, that would interfere
2235 with the control and supervision of an offender's incarceration, treatment, probation, or parole;

2236 (13) records that, if disclosed, would reveal recommendations made to the Board of
2237 Pardons and Parole by an employee of or contractor for the Department of Corrections, the
2238 Board of Pardons and Parole, or the Department of Human Services that are based on the
2239 employee's or contractor's supervision, diagnosis, or treatment of any person within the board's
2240 jurisdiction;

2241 (14) records and audit workpapers that identify audit, collection, and operational
2242 procedures and methods used by the State Tax Commission, if disclosure would interfere with
2243 audits or collections;

2244 (15) records of a governmental audit agency relating to an ongoing or planned audit
2245 until the final audit is released;

2246 (16) records prepared by or on behalf of a governmental entity solely in anticipation of
2247 litigation that are not available under the rules of discovery;

2248 (17) records disclosing an attorney's work product, including the mental impressions or
2249 legal theories of an attorney or other representative of a governmental entity concerning
2250 litigation;

2251 (18) records of communications between a governmental entity and an attorney
2252 representing, retained, or employed by the governmental entity if the communications would be
2253 privileged as provided in Section 78-24-8;

2254 (19) personal files of a legislator, including personal correspondence to or from a
2255 member of the Legislature, provided that correspondence that gives notice of legislative action
2256 or policy may not be classified as protected under this section;

2257 (20) (a) records in the custody or control of the Office of Legislative Research and
2258 General Counsel, that, if disclosed, would reveal a particular legislator's contemplated
2259 legislation or contemplated course of action before the legislator has elected to support the

2260 legislation or course of action, or made the legislation or course of action public; and
2261 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the
2262 Office of Legislative Research and General Counsel is a public document unless a legislator
2263 asks that the records requesting the legislation be maintained as protected records until such
2264 time as the legislator elects to make the legislation or course of action public;

2265 (21) research requests from legislators to the Office of Legislative Research and
2266 General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared
2267 in response to these requests;

2268 (22) drafts, unless otherwise classified as public;

2269 (23) records concerning a governmental entity's strategy about collective bargaining or
2270 pending litigation;

2271 (24) records of investigations of loss occurrences and analyses of loss occurrences that
2272 may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the
2273 Uninsured Employers' Fund, or similar divisions in other governmental entities;

2274 (25) records, other than personnel evaluations, that contain a personal recommendation
2275 concerning an individual if disclosure would constitute a clearly unwarranted invasion of
2276 personal privacy, or disclosure is not in the public interest;

2277 (26) records that reveal the location of historic, prehistoric, paleontological, or
2278 biological resources that if known would jeopardize the security of those resources or of
2279 valuable historic, scientific, educational, or cultural information;

2280 (27) records of independent state agencies if the disclosure of the records would
2281 conflict with the fiduciary obligations of the agency;

2282 (28) records of an institution within the state system of higher education defined in
2283 Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions,
2284 retention decisions, and promotions, which could be properly discussed in a meeting closed in
2285 accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of
2286 the final decisions about tenure, appointments, retention, promotions, or those students
2287 admitted, may not be classified as protected under this section;

2288 (29) records of the governor's office, including budget recommendations, legislative
2289 proposals, and policy statements, that if disclosed would reveal the governor's contemplated
2290 policies or contemplated courses of action before the governor has implemented or rejected

2291 those policies or courses of action or made them public;

2292 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,
2293 revenue estimates, and fiscal notes of proposed legislation before issuance of the final
2294 recommendations in these areas;

2295 (31) records provided by the United States or by a government entity outside the state
2296 that are given to the governmental entity with a requirement that they be managed as protected
2297 records if the providing entity certifies that the record would not be subject to public disclosure
2298 if retained by it;

2299 (32) transcripts, minutes, or reports of the closed portion of a meeting of a public body
2300 except as provided in Section [~~52-4-7~~] 52-4-206;

2301 (33) records that would reveal the contents of settlement negotiations but not including
2302 final settlements or empirical data to the extent that they are not otherwise exempt from
2303 disclosure;

2304 (34) memoranda prepared by staff and used in the decision-making process by an
2305 administrative law judge, a member of the Board of Pardons and Parole, or a member of any
2306 other body charged by law with performing a quasi-judicial function;

2307 (35) records that would reveal negotiations regarding assistance or incentives offered
2308 by or requested from a governmental entity for the purpose of encouraging a person to expand
2309 or locate a business in Utah, but only if disclosure would result in actual economic harm to the
2310 person or place the governmental entity at a competitive disadvantage, but this section may not
2311 be used to restrict access to a record evidencing a final contract;

2312 (36) materials to which access must be limited for purposes of securing or maintaining
2313 the governmental entity's proprietary protection of intellectual property rights including patents,
2314 copyrights, and trade secrets;

2315 (37) the name of a donor or a prospective donor to a governmental entity, including an
2316 institution within the state system of higher education defined in Section 53B-1-102, and other
2317 information concerning the donation that could reasonably be expected to reveal the identity of
2318 the donor, provided that:

2319 (a) the donor requests anonymity in writing;

2320 (b) any terms, conditions, restrictions, or privileges relating to the donation may not be
2321 classified protected by the governmental entity under this Subsection (37); and

2322 (c) except for an institution within the state system of higher education defined in
2323 Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged
2324 in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority
2325 over the donor, a member of the donor's immediate family, or any entity owned or controlled
2326 by the donor or the donor's immediate family;

2327 (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and
2328 73-18-13;

2329 (39) a notification of workers' compensation insurance coverage described in Section
2330 34A-2-205;

2331 (40) (a) the following records of an institution within the state system of higher
2332 education defined in Section 53B-1-102, which have been developed, discovered, disclosed to,
2333 or received by or on behalf of faculty, staff, employees, or students of the institution:

2334 (i) unpublished lecture notes;

2335 (ii) unpublished notes, data, and information:

2336 (A) relating to research; and

2337 (B) of:

2338 (I) the institution within the state system of higher education defined in Section
2339 53B-1-102; or

2340 (II) a sponsor of sponsored research;

2341 (iii) unpublished manuscripts;

2342 (iv) creative works in process;

2343 (v) scholarly correspondence; and

2344 (vi) confidential information contained in research proposals;

2345 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public
2346 information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

2347 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;

2348 (41) (a) records in the custody or control of the Office of Legislative Auditor General
2349 that would reveal the name of a particular legislator who requests a legislative audit prior to the
2350 date that audit is completed and made public; and

2351 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the
2352 Office of the Legislative Auditor General is a public document unless the legislator asks that

2353 the records in the custody or control of the Office of Legislative Auditor General that would
2354 reveal the name of a particular legislator who requests a legislative audit be maintained as
2355 protected records until the audit is completed and made public;

2356 (42) records that provide detail as to the location of an explosive, including a map or
2357 other document that indicates the location of:

2358 (a) a production facility; or

2359 (b) a magazine;

2360 (43) information contained in the database described in Section 62A-3-311.1;

2361 (44) information contained in the Management Information System and Licensing
2362 Information System described in Title 62A, Chapter 4a, Child and Family Services;

2363 (45) information regarding National Guard operations or activities in support of the
2364 National Guard's federal mission;

2365 (46) records provided by any pawnbroker or pawnshop to a law enforcement agency or
2366 to the central database in compliance with Title 13, Chapter 32a, Pawnshop Transaction
2367 Information Act;

2368 (47) information regarding food security, risk, and vulnerability assessments performed
2369 by the Department of Agriculture and Food;

2370 (48) except to the extent that the record is exempt from this chapter pursuant to Section
2371 63-2-106, records related to an emergency plan or program prepared or maintained by the
2372 Division of Emergency Services and Homeland Security the disclosure of which would
2373 jeopardize:

2374 (a) the safety of the general public; or

2375 (b) the security of:

2376 (i) governmental property;

2377 (ii) governmental programs; or

2378 (iii) the property of a private person who provides the Division of Emergency Services
2379 and Homeland Security information;

2380 (49) records of the Department of Agriculture and Food relating to the National
2381 Animal Identification System or any other program that provides for the identification, tracing,
2382 or control of livestock diseases, including any program established under Title 4, Chapter 24,
2383 Utah Livestock Brand and Anti-theft Act or Title 4, Chapter 31, Utah Livestock Inspection and

2384 Quarantine; and

2385 (50) as provided in Section 26-39-109:

2386 (a) information or records held by the Department of Health related to a complaint
2387 regarding a child care program or residential child care which the department is unable to
2388 substantiate; and

2389 (b) information or records related to a complaint received by the Department of Health
2390 from an anonymous complainant regarding a child care program or residential child care.

2391 Section 49. Section **63-38f-1205** is amended to read:

2392 **63-38f-1205. Board members -- Meetings -- Expenses.**

2393 (1) (a) The board shall consist of five members.

2394 (b) Of the five members:

2395 (i) one shall be the state treasurer;

2396 (ii) one shall be the director or the director's designee; and

2397 (iii) three shall be appointed by the governor and confirmed by the Senate.

2398 (c) The three members appointed by the governor shall serve four-year staggered terms
2399 with the initial terms of the first three members to be four years for one member, three years for
2400 one member, and two years for one member.

2401 (2) When a vacancy occurs in the membership of the board for any reason, the vacancy
2402 shall be:

2403 (a) filled in the same manner as the appointment of the original member; and

2404 (b) for the unexpired term of the board member being replaced.

2405 (3) Appointed members of the board may not serve more than two full consecutive
2406 terms except where the governor determines that an additional term is in the best interest of the
2407 state.

2408 (4) Three members of the board constitute a quorum for conducting business and
2409 exercising board power, provided that a minimum of three affirmative votes is required for
2410 board action and at least one of the affirmative votes is cast by either the director or the
2411 director's designee or the state treasurer.

2412 (5) (a) Members of the board may not receive compensation or benefits for their
2413 services, but may receive per diem and expenses incurred in the performance of the members'
2414 official duties at rates established by the Division of Finance under Sections 63A-3-106 and

2415 63A-3-107.

2416 (b) Members of the board may decline to receive per diem and expenses for their
2417 services.

2418 (6) Members of the board shall be selected on the basis of demonstrated expertise and
2419 competence in:

2420 (a) the supervision of investment managers;

2421 (b) the fiduciary management of investment funds; or

2422 (c) the management and administration of tax credit allocation programs.

2423 (7) The board and its members are considered to be a governmental entity with all of
2424 the rights, privileges, and immunities of a governmental entity of the state, including all of the
2425 rights and benefits conferred under Title 63, Chapter 30d, Governmental Immunity Act of
2426 Utah.

2427 (8) Meetings of the board, except to the extent necessary to protect confidential
2428 information with respect to investments in the Utah fund of funds, are subject to Title 52,
2429 Chapter 4, Open and Public Meetings Act.

2430 Section 50. Section **63-38f-1224** is amended to read:

2431 **63-38f-1224. Exemption from certain statutes.**

2432 (1) Except as otherwise provided in this part, the corporation is exempt from statutes
2433 governing state agencies, as provided in Section 63E-2-109.

2434 (2) The corporation shall be subject to:

2435 (a) Title 52, Chapter 4, Open and Public Meetings Act; and

2436 (b) except as provided in Subsection (3), Title 63, Chapter 2, Government Records
2437 Access and Management Act.

2438 (3) The corporation and the board are exempt from the requirement to report fund
2439 performance of venture firms and private equity firms set forth in Title 63, Chapter 2,
2440 Government Records Access and Management Act.

2441 Section 51. Section **63-88-107** is amended to read:

2442 **63-88-107. Utah Dineh Committee.**

2443 (1) There is created the Dineh Committee.

2444 (2) (a) The governor, with the consent of the Senate, shall appoint nine members to the
2445 committee.

2446 (b) In making an appointment under Subsection (2)(a), the governor shall ensure that:
2447 (i) each member of the committee is an individual:
2448 (A) who is an enrolled member of the Navajo Nation; and
2449 (B) whose name and tribal number are contained in the trust fund's population
2450 database; and
2451 (ii) the committee includes:
2452 (A) two registered members of the Aneth Chapter of the Navajo Nation who reside in
2453 San Juan County, Utah;
2454 (B) one registered member of the Blue Mountain Dine' who resides in San Juan
2455 County, Utah;
2456 (C) one registered member of the Mexican Water Chapter of the Navajo Nation who
2457 resides in San Juan County, Utah;
2458 (D) one registered member of the Navajo Mountain Chapter of the Navajo Nation who
2459 resides in San Juan County, Utah;
2460 (E) subject to Subsection (11), two members who reside in San Juan County, Utah:
2461 (I) one of which shall be a registered member of the Oljato Chapter of the Navajo
2462 Nation; and
2463 (II) one of which shall be a registered member of either the Oljato Chapter or the
2464 Dennehotso Chapter of the Navajo Nation;
2465 (F) one registered member of the Red Mesa Chapter of the Navajo Nation who resides
2466 in San Juan County, Utah; and
2467 (G) one registered member of the Teec Nos Pos Chapter of the Navajo Nation who
2468 resides in San Juan County, Utah.
2469 (3) (a) (i) Each of the Utah Navajo Chapters, except the Aneth, Oljato, and Dennehotso
2470 chapters, shall submit to the governor the names of three nominees to the Dineh Committee
2471 chosen by the chapter.
2472 (ii) The governor shall select one of the three persons submitted under Subsection
2473 (3)(a)(i) as that chapter's representative on the Dineh Committee.
2474 (b) (i) The Blue Mountain Dine' shall submit to the governor the names of three
2475 nominees to the Dineh Committee.
2476 (ii) The governor shall select one of the three persons submitted under Subsection

2477 (3)(b)(i) as the Blue Mountain Dine' representative on the Dineh Committee.

2478 (c) (i) The Aneth Chapter shall submit to the governor the names of six nominees to
2479 the Dineh Committee chosen by the chapter.

2480 (ii) The governor shall select two of the six persons submitted under Subsection
2481 (3)(c)(i) to be the Aneth Chapter's representatives on the Dineh Committee.

2482 (d) (i) The Oljato Chapter shall submit to the governor the names of six nominees to
2483 the Dineh Committee chosen by the chapter.

2484 (ii) One of the six names submitted under Subsection (3)(d)(i) may be a registered
2485 member of the Dennehotso Chapter.

2486 (iii) The governor shall select two of the six persons submitted under Subsection
2487 (3)(d)(i) to be the representatives on the Dineh Committee of the Oljato and Dennehotso
2488 chapters.

2489 (4) The governor may not appoint any person who is currently, or who, within the last
2490 12 months, has been an officer, director, employee, or contractor of any business enterprise or
2491 service provider that solicits, accepts, or receives monies from:

2492 (a) the Division of Indian Affairs; or

2493 (b) the trust fund established in this chapter.

2494 (5) Other than the amount authorized by this section for Dineh Committee member
2495 expenses, a person appointed to the Dineh Committee may not solicit, accept, or receive any
2496 monies from:

2497 (a) the Division of Indian Affairs;

2498 (b) the trust fund; or

2499 (c) as an officer, director, employee, or contractor of any business enterprise or service
2500 provider that solicits, accepts, or receives expenditures from:

2501 (i) the Division of Indian Affairs; or

2502 (ii) the trust fund.

2503 (6) (a) (i) Except as required by Subsection (6)(a)(ii), as terms of current committee
2504 members expire, the governor shall appoint each new member or reappointed member to a
2505 four-year term.

2506 (ii) Notwithstanding the requirements of Subsection (6)(a)(i), the governor shall, at the
2507 time of appointment or reappointment, adjust the length of terms to ensure that the terms of

2508 committee members are staggered so that approximately half of the committee is appointed
2509 every two years.

2510 (b) Except as provided in Subsection (6)(c), committee members shall serve until their
2511 successors are appointed and qualified.

2512 (c) (i) If a committee member is absent from three consecutive committee meetings, or
2513 if the committee member has violated the ethical or conflict of interest policies established by
2514 statute or by the committee, that member's appointment is terminated, the position is vacant,
2515 and the governor shall appoint a replacement.

2516 (ii) When a vacancy occurs in the membership for any reason, the replacement shall be
2517 appointed for the unexpired term according to the procedures of this section.

2518 (7) (a) The committee shall select a chair and a vice chair from its membership each
2519 two years subsequent to the appointment of new members.

2520 (b) Five members of the committee are a quorum for the transaction of business.

2521 (c) The committee shall:

2522 (i) comply with the procedures and requirements of Title 52, Chapter 4, Open and
2523 Public Meetings Act;

2524 (ii) ensure that all of its meetings are held at or near:

2525 (A) a chapter house or meeting hall of a Utah Navajo Chapter; or

2526 (B) other places in Utah that the committee considers practical and appropriate; and

2527 (iii) ensure that all of its meetings are public hearings at which any resident of San Juan
2528 County may appear and speak.

2529 (8) (a) Members shall receive no compensation or benefits for their services, but may
2530 receive per diem and expenses incurred in the performance of the member's official duties at
2531 the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107 from
2532 the trust fund.

2533 (b) Members may decline to receive per diem and expenses for their service.

2534 (9) The Office of Trust Administrator is staff to the committee.

2535 (10) The committee shall advise the trust administrator about the expenditure of trust
2536 fund monies.

2537 (11) If both members appointed under Subsection (2)(b)(ii)(E) are registered members
2538 of the Oljato Chapter, the two members shall attend Dennehotso Chapter meetings as

2539 practicable.

2540 Section 52. Section **63A-1-114 (Superseded 07/01/06)** is amended to read:

2541 **63A-1-114 (Superseded 07/01/06). Rate Committee -- Membership -- Duties.**

2542 (1) (a) There is created a Rate Committee which shall consist of:

2543 (i) the director of the Governor's Office of Planning and Budget, or a designee;

2544 (ii) the executive directors of three state agencies that use services and pay rates to one
2545 of the department internal service funds, or their designee, appointed by the governor for a
2546 two-year term;

2547 (iii) the executive director of the Department of Administrative Services, or a designee;

2548 (iv) the director of the Division of Finance, or a designee; and

2549 (v) the chief information officer.

2550 (b) (i) The committee shall elect a chair from its members.

2551 (ii) Members of the committee who are state government employees and who do not
2552 receive salary, per diem, or expenses from their agency for their service on the committee shall
2553 receive no compensation, benefits, per diem, or expenses for the members' service on the
2554 committee.

2555 (c) The Department of Administrative Services shall provide staff services to the
2556 committee.

2557 (2) (a) The internal service funds managed by the following divisions shall submit to
2558 the committee a proposed rate and fee schedule for services rendered by the divisions to an
2559 executive branch entity or an entity that subscribes to services rendered by the division, the:

2560 (i) Division of Facilities Construction and Management;

2561 (ii) Division of Fleet Operations;

2562 (iii) Division of Purchasing and General Services;

2563 (iv) Division of Information Technology Services; and

2564 (v) Division of Risk Management.

2565 (b) The committee shall:

2566 (i) conduct meetings in accordance with Title 52, Chapter 4, Open and Public Meetings
2567 Act;

2568 (ii) review the proposed rate and fee schedules and may approve, increase, or decrease
2569 the rate and fee;

2570 (iii) recommend a proposed rate and fee schedule for each internal service fund to:
2571 (A) the Governor's Office of Planning and Budget; and
2572 (B) the legislative appropriations subcommittees that, in accordance with Section
2573 63-38-3.5, approve the internal service fund agency's rates, fees, and budget; and
2574 (iv) review and approve, increase or decrease an interim rate, fee, or amount when an
2575 internal service fund agency begins a new service or introduces a new product between annual
2576 general sessions of the Legislature.

2577 (c) The committee may in accordance with Subsection 63-38-3.5(4) decrease a rate,
2578 fee, or amount that has been approved by the Legislature.

2579 Section 53. Section **63A-1-114 (Effective 07/01/06)** is amended to read:

2580 **63A-1-114 (Effective 07/01/06). Rate Committee -- Membership -- Duties.**

2581 (1) (a) There is created a Rate Committee which shall consist of:

2582 (i) the director of the Governor's Office of Planning and Budget, or a designee;

2583 (ii) the executive directors of three state agencies that use services and pay rates to one
2584 of the department internal service funds, or their designee, appointed by the governor for a
2585 two-year term;

2586 (iii) the executive director of the Department of Administrative Services, or a designee;

2587 (iv) the director of the Division of Finance, or a designee; and

2588 (v) the chief information officer.

2589 (b) (i) The committee shall elect a chair from its members.

2590 (ii) Members of the committee who are state government employees and who do not
2591 receive salary, per diem, or expenses from their agency for their service on the committee shall
2592 receive no compensation, benefits, per diem, or expenses for the members' service on the
2593 committee.

2594 (c) The Department of Administrative Services shall provide staff services to the
2595 committee.

2596 (2) (a) The internal service funds managed by the following divisions shall submit to
2597 the committee a proposed rate and fee schedule for services rendered by the divisions to an
2598 executive branch entity or an entity that subscribes to services rendered by the division, the:

2599 (i) Division of Facilities Construction and Management;

2600 (ii) Division of Fleet Operations;

- 2601 (iii) Division of Purchasing and General Services; and
2602 (iv) Division of Risk Management.
- 2603 (b) The committee shall:
- 2604 (i) conduct meetings in accordance with Title 52, Chapter 4, Open and Public Meetings
2605 Act;
- 2606 (ii) review the proposed rate and fee schedules and may approve, increase, or decrease
2607 the rate and fee;
- 2608 (iii) recommend a proposed rate and fee schedule for each internal service fund to:
- 2609 (A) the Governor's Office of Planning and Budget; and
2610 (B) the legislative appropriations subcommittees that, in accordance with Section
2611 63-38-3.5, approve the internal service fund agency's rates, fees, and budget; and
- 2612 (iv) review and approve, increase or decrease an interim rate, fee, or amount when an
2613 internal service fund agency begins a new service or introduces a new product between annual
2614 general sessions of the Legislature.
- 2615 (c) The committee may in accordance with Subsection 63-38-3.5(4) decrease a rate,
2616 fee, or amount that has been approved by the Legislature.
- 2617 Section 54. Section **63A-5-102** is amended to read:
- 2618 **63A-5-102. Meetings of board -- Rules of procedure -- Quorum.**
- 2619 (1) The chair or any two members may call meetings of the State Building Board.
2620 (2) The board shall adopt rules of procedure for the conduct of its meetings.
2621 (3) Three members of the board shall constitute a quorum for the transaction of
2622 business.
- 2623 (4) All meetings of the board shall be conducted in accordance with Title 52, Chapter
2624 4, Open and Public Meetings Act.
- 2625 Section 55. Section **63C-4-101** is amended to read:
- 2626 **63C-4-101. Creation of Constitutional Defense Council -- Membership --**
2627 **Vacancies -- Reports -- Per diem and funding.**
- 2628 (1) There is created the Constitutional Defense Council.
2629 (2) (a) The defense council shall consist of the following 11 members:
2630 (i) the governor, who shall serve as chair of the council;
2631 (ii) the president of the Senate or his designee;

- 2632 (iii) the speaker of the House or his designee;
- 2633 (iv) the minority leader of the Senate or his designee;
- 2634 (v) the minority leader of the House or his designee;
- 2635 (vi) the attorney general or his designee;
- 2636 (vii) one citizen member appointed by the governor; and
- 2637 (viii) four elected county commissioners, county council members, or county
- 2638 executives from different counties who are selected by the Utah Association of Counties.
- 2639 (b) The council shall select a vice-chair from its members.
- 2640 (3) When a vacancy occurs in the membership for any reason, the replacement shall be
- 2641 appointed for the unexpired term in the same manner as the original appointment.
- 2642 (4) (a) (i) Except as provided in Subsection (4)(a)(ii), the defense council shall meet at
- 2643 least monthly or more frequently as needed.
- 2644 (ii) The defense council need not meet monthly if the chair, after polling the members,
- 2645 determines that a majority of the members do not wish to meet.
- 2646 (b) The governor or any six members of the council may call a meeting of the council.
- 2647 (c) Before calling a meeting, the governor or council members shall solicit items for
- 2648 the agenda from other members of the council.
- 2649 (d) (i) The Constitutional Defense Council shall require that any entity that receives
- 2650 monies from the Constitutional Defense Restricted Account provide financial reports and
- 2651 litigation reports to the Council.
- 2652 (ii) Nothing in this Subsection (4)(d) prohibits the council from closing a meeting
- 2653 under Title 52, Chapter 4, Open and Public Meetings Act, or prohibits the council from
- 2654 complying with Title 63, Chapter 2, Government Records Access and Management Act.
- 2655 (e) A majority of the membership on the defense council is required for a quorum to
- 2656 conduct council business. A majority vote of the quorum is required for any action taken by
- 2657 the defense council.
- 2658 (5) The Office of the Attorney General shall provide staff to the defense council.
- 2659 (6) (a) (i) State government officer and employee members who do not receive salary,
- 2660 per diem, or expenses from their agency for their service may receive per diem and expenses
- 2661 incurred in the performance of their official duties from the council at the rates established by
- 2662 the Division of Finance under Sections 63A-3-106 and 63A-3-107.

2663 (ii) State government officer and employee members may decline to receive per diem
2664 and expenses for their service.

2665 (b) (i) Local government members who do not receive salary, per diem, or expenses
2666 from the entity that they represent for their service may receive per diem and expenses incurred
2667 in the performance of their official duties at the rates established by the Division of Finance
2668 under Sections 63A-3-106 and 63A-3-107.

2669 (ii) Local government members may decline to receive per diem and expenses for their
2670 service.

2671 (c) Legislators on the committee shall receive compensation and expenses as provided
2672 by law and legislative rule.

2673 (7) (a) The council shall be funded from the Constitutional Defense Restricted Account
2674 created in Section 63C-4-103.

2675 (b) Monies appropriated for or received by the council may be expended by the
2676 governor in consultation with the council.

2677 Section 56. Section **63C-4-103** is amended to read:

2678 **63C-4-103. Creation of Constitutional Defense Restricted Account -- Sources of**
2679 **funds -- Uses of funds -- Reports.**

2680 (1) There is created a restricted account within the General Fund known as the
2681 Constitutional Defense Restricted Account.

2682 (2) The account consists of monies from the following revenue sources:

2683 (a) monies deposited to the account as required by Section 53C-3-202;

2684 (b) voluntary contributions;

2685 (c) monies received by the Constitutional Defense Council from other state agencies;

2686 and

2687 (d) appropriations made by the Legislature.

2688 (3) Funds in the account shall be nonlapsing.

2689 (4) The account balance may not exceed \$2,000,000.

2690 (5) The Legislature may annually appropriate monies from the Constitutional Defense
2691 Restricted Account to one or more of the following:

2692 (a) the Constitutional Defense Council to carry out its duties in Section 63C-4-102;

2693 (b) the Public Lands Policy Coordinating Office to carry out its duties in Section

2694 63-38d-603;

2695 (c) the Public Lands Policy Coordinating Council to carry out its duties in Section
2696 63-38d-605.

2697 (d) the Office of the Governor, to be used only for the purpose of asserting, defending,
2698 or litigating state and local government rights under R.S. 2477, in accordance with a plan
2699 developed and approved as provided in Section 63C-4-104;

2700 (e) a county or association of counties to assist counties, consistent with the purposes
2701 of the council, in pursuing issues affecting the counties; or

2702 (f) the Office of the Attorney General, to be used only for public lands counsel and
2703 assistance and litigation to the state or local governments including asserting, defending, or
2704 litigating state and local government rights under R.S. 2477 in accordance with a plan
2705 developed and approved as provided in Section 63C-4-104.

2706 (6) (a) The Constitutional Defense Council shall require that any entity that receives
2707 monies from the Constitutional Defense Restricted Account provide financial reports and
2708 litigation reports to the Council.

2709 (b) Nothing in this Subsection (6) prohibits the council from closing a meeting under
2710 Title 52, Chapter 4, Open and Public Meetings Act, or prohibits the council from complying
2711 with Title 63, Chapter 2, Government Records Access and Management Act.

2712 Section 57. Section **63D-1a-203** is amended to read:

2713 **63D-1a-203. Utah Technology Industry Council.**

2714 (1) As used in this section:

2715 (a) "Council" means the Utah Technology Industry Council created by this section.

2716 (b) "Technology industry business in this state" means a business that has as a primary
2717 function the research, development, production, or marketing of technologies in technology
2718 sectors including:

2719 (i) aerospace;

2720 (ii) biotechnology or other technologies related to life sciences;

2721 (iii) information technologies or other technologies related to information technologies;

2722 or

2723 (iv) other key technology industries sectors as the technology industries develop.

2724 (2) (a) There is created a Utah Technology Industry Council to act as a body that

- 2725 recommends policy to the commission.
- 2726 (b) Subject to the requirements of this section, the council:
- 2727 (i) shall be organized by the steering committee created under Subsection (3); and
- 2728 (ii) operate in accordance with the charter that:
- 2729 (A) is initially adopted by the steering committee in accordance with Subsection (4);
- 2730 and
- 2731 (B) amended as provided in the charter.
- 2732 (c) A member of the council shall receive no compensation or benefits for the
- 2733 member's services including per diem or expenses incurred in the performance of the member's
- 2734 official duties on the council.
- 2735 (3) (a) The steering committee described in Subsection (2) shall consist of eight
- 2736 members:
- 2737 (i) the director of the Governor's Office of Economic Development or the director's
- 2738 designee, provided that the designee is a senior officer in the office; and
- 2739 (ii) seven members appointed as follows:
- 2740 (A) the speaker of the House of Representatives shall appoint two members who are
- 2741 present or former senior:
- 2742 (I) officers of technology industry businesses in the state; or
- 2743 (II) executive directors of technology industry associations in this state;
- 2744 (B) the president of the Senate shall appoint two members who are present or former:
- 2745 (I) senior officers of technology industry businesses in the state; or
- 2746 (II) executive directors of technology industry associations in this state;
- 2747 (C) the governor shall appoint two members who are present or former:
- 2748 (I) senior officers in technology industry businesses in the state; or
- 2749 (II) executive directors of technology industry associations in this state; and
- 2750 (D) the chair of the steering committee shall appoint a representative of political
- 2751 subdivisions of the state who is an elected official in any Utah municipality or county.
- 2752 (b) (i) The members of the steering committee shall elect a chair of the steering
- 2753 committee from the steering committee by a majority vote.
- 2754 (ii) The chair of the steering committee shall act as chair of the council.
- 2755 (c) (i) Except as required by Subsection (3)(c)(ii), a member of the steering committee

2756 appointed under Subsection (3)(a)(ii) shall be appointed to a term of four years.

2757 (ii) Notwithstanding the requirements of Subsection (3)(c)(i), at the time of initial
2758 appointment of the steering committee, the members of the steering committee shall create a
2759 random process to adjust the length of terms of the initial members of the steering committee to
2760 ensure that the terms of members are staggered so that approximately half of the steering
2761 committee is appointed every two years.

2762 (d) The Governor's Office of Economic Development shall provide staff to:

2763 (i) the steering committee; and

2764 (ii) the council.

2765 (4) The steering committee appointed under Subsection (3) shall adopt a charter for the
2766 council by no later than July 1, 2003 that specifies:

2767 (a) the number, terms, and appointment of voting members of the council, except that
2768 the voting members of the council shall be:

2769 (i) present or former senior officers of technology industry businesses in the state;

2770 (ii) present or former executive directors of technology associations in the state; or

2771 (iii) representatives of:

2772 (A) state or local government; or

2773 (B) public or higher education;

2774 (b) the number, terms, and appointment of nonvoting members of the council;

2775 (c) the term of the chair of the council;

2776 (d) the process to be followed in creating any subcommittees of the council;

2777 (e) the quorum requirements for the council or for subcommittees of the council to take
2778 action;

2779 (f) the processes to be followed to call a meeting of the council or a subcommittee of
2780 the council, except that:

2781 (i) any meeting of the council or a subcommittee of the council is subject to Title 52,
2782 Chapter 4, Open and Public Meetings Act;

2783 (ii) members of the commission shall be provided notice of each meeting of the council
2784 or of a subcommittee of the council; and

2785 (iii) legislative members of the commission that attend a meeting of the council or a
2786 subcommittee of the council:

2787 (A) may not vote unless the legislator is a member of the council or the subcommittee;
2788 and

2789 (B) may receive a salary and expenses paid in accordance with Section 36-2-2 and
2790 Legislative Joint Rule 15.03; and

2791 (g) the process for amending the charter under which the council operates.

2792 (5) The council may:

2793 (a) conduct research or other studies to the extent that funding is available;

2794 (b) review practices in the worldwide private and public sectors that could foster
2795 technology business growth in the state;

2796 (c) prepare an assessment of the current status of technology industries in the state
2797 including:

2798 (i) the needs of technology industries in the state; and

2799 (ii) opportunities for future growth of technology industries in the state;

2800 (d) develop a strategic plan as to:

2801 (i) the future of technology industries in the state;

2802 (ii) the future economic value technology industries can bring to the state; and

2803 (iii) the future benefits technology industries can bring to the quality of life of the
2804 citizens in the state;

2805 (e) develop plans, including public and private sector initiatives, to meet any objectives
2806 included in the strategic plan statement described in Subsection (5)(d), including proposals to
2807 support the creation, retention, expansion, or attraction of technology industry businesses in the
2808 state; and

2809 (f) study other issues as directed by the commission related to economic development
2810 of technology industries.

2811 Section 58. Section **63E-2-109** is amended to read:

2812 **63E-2-109. State statutes.**

2813 (1) Except as specifically modified in its authorizing statute, each independent
2814 corporation shall be exempt from the statutes governing state agencies, including:

2815 (a) Title 51, Chapter 5, Funds Consolidation Act;

2816 (b) Title 51, Chapter 7, State Money Management Act;

2817 (c) Title 63, Chapter 38, Budgetary Procedures Act;

- 2818 (d) Title 63, Chapter 38a, Revenue Procedures and Control Act;
- 2819 (e) Title 63, Chapter 46a, Utah Administrative Rulemaking Act;
- 2820 (f) Title 63, Chapter 46b, Administrative Procedures Act;
- 2821 (g) Title 63, Chapter 56, Utah Procurement Code;
- 2822 (h) Title 63A, Utah Administrative Services Code; and
- 2823 (i) Title 67, Chapter 19, Utah Personnel Management Act.

2824 (2) Except as specifically modified in its authorizing statute, each independent
 2825 corporation shall be subject to:

- 2826 (a) Title 52, Chapter 4, Open and Public Meetings Act; and
- 2827 (b) Title 63, Chapter 2, Government Records Access and Management Act.
- 2828 (3) Each independent corporation board may adopt its own policies and procedures
 2829 governing its:

- 2830 (a) funds management;
- 2831 (b) audits; and
- 2832 (c) personnel.

2833 Section 59. Section **63F-1-302** is amended to read:

2834 **63F-1-302. Information Technology Rate Committee -- Membership -- Duties.**

2835 (1) (a) There is created an Information Technology Rate Committee which shall consist
 2836 of:

- 2837 (i) the director of the Governor's Office of Planning and Budget, or a designee;
- 2838 (ii) the executive directors, or their designee, of three executive branch agencies that
 2839 use services and pay rates to one of the department internal service funds, appointed by the
 2840 governor for a two-year term;
- 2841 (iii) the director of the Division of Finance, or a designee; and
- 2842 (iv) the chief information officer.

2843 (b) (i) The director of the Division of Finance shall serve as chair of the committee.
 2844 (ii) Members of the committee who are state government employees and who do not
 2845 receive salary, per diem, or expenses from their agency for their service on the committee shall
 2846 receive no compensation, benefits, per diem, or expenses for the member's service on the
 2847 committee.

2848 (c) The department shall provide staff services to the committee.

2849 (2) (a) Any internal service funds managed by the department shall submit to the
2850 committee a proposed rate and fee schedule for services rendered by the department to an
2851 executive branch agency or an entity that subscribes to services rendered by the department.

2852 (b) The committee shall:

2853 (i) conduct meetings in accordance with Title 52, Chapter 4, Open and Public Meetings
2854 Act;

2855 (ii) review the proposed rate and fee schedule and determine if the proposed fee is
2856 based on cost recovery as required by Subsection 63F-1-301(2)(b);

2857 (iii) review the proposed rate and fee schedules and may approve, increase, or decrease
2858 the rate and fee;

2859 (iv) recommend a proposed rate and fee schedule for each internal service fund to:

2860 (A) the Governor's Office of Planning and Budget; and

2861 (B) the Office of Legislative Fiscal Analyst for review by the Legislature in accordance
2862 with Section 63-38-3.5, which requires the Legislature to approve the internal service fund
2863 agency's rates, fees, and budget in an appropriations act; and

2864 (v) in accordance with Section 63-38-3.5, review and approve, increase or decrease an
2865 interim rate, fee, or amount when an internal service fund agency begins a new service or
2866 introduces a new product between annual general sessions of the Legislature, which rate, fee, or
2867 amount shall be submitted to the Legislature at the next annual general session.

2868 (c) The committee may in accordance with Subsection 63-38-3.5(4) decrease a rate,
2869 fee, or amount that has been approved by the Legislature.

2870 Section 60. Section **67-19a-406** is amended to read:

2871 **67-19a-406. Procedural steps to be followed by aggrieved employee -- Hearing**
2872 **before hearing officer -- Evidentiary and procedural rules.**

2873 (1) (a) The administrator shall employ a certified court reporter to record the hearing
2874 and prepare an official transcript of the hearing.

2875 (b) The official transcript of the proceedings and all exhibits, briefs, motions, and
2876 pleadings received by the hearing officer are the official record of the proceeding.

2877 (2) (a) The agency has the burden of proof in all grievances resulting from dismissals,
2878 demotions, suspensions, written reprimands, reductions in force, and disputes concerning
2879 abandonment of position.

- 2880 (b) The employee has the burden of proof in all other grievances.
- 2881 (c) The party with the burden of proof must prove their case by substantial evidence.
- 2882 (3) (a) The hearing officer shall issue a written decision within 20 working days after
- 2883 the hearing is adjourned.
- 2884 (b) If the hearing officer does not issue a decision within 20 working days, the agency
- 2885 that is a party to the grievance is not liable for any claimed back wages or benefits after the date
- 2886 the decision is due.
- 2887 (4) The hearing officer may:
- 2888 (a) not award attorneys' fees or costs to either party;
- 2889 (b) close a hearing by complying with the procedures and requirements of Title 52,
- 2890 Chapter 4, Open and Public Meetings Act;
- 2891 (c) seal the file and the evidence produced at the hearing if the evidence raises
- 2892 questions about an employee's character, professional competence, or physical or mental
- 2893 health;
- 2894 (d) grant continuances according to board rule; and
- 2895 (e) decide questions or disputes concerning standing in accordance with Section
- 2896 67-19a-301.
- 2897 Section 61. Section **67-19a-408** is amended to read:
- 2898 **67-19a-408. Career Service Review Board hearing -- Evidentiary and procedural**
- 2899 **rules.**
- 2900 (1) The board shall:
- 2901 (a) hold a hearing to review the hearing officer's decision not later than 30 days after it
- 2902 receives the official transcript and the briefs;
- 2903 (b) review the decision of the hearing officer by considering the official record of that
- 2904 hearing and the briefs of the parties; and
- 2905 (c) issue its written decision addressing the hearing officer's decision within 40
- 2906 working days after the record for its proceeding is closed.
- 2907 (2) In addition to whatever other remedy the board grants, it may order that the
- 2908 employee be placed on the reappointment roster provided for by Section 67-19-17 for
- 2909 assignment to another agency.
- 2910 (3) If the board does not issue its written decision within 40 working days after closing

2911 the record, the agency that is a party to the grievance is not liable for any claimed back wages
2912 or benefits after the date the decision is due.

2913 (4) The board may not award attorneys' fees or costs to either party.

2914 (5) The board may close a hearing by complying with the procedures and requirements
2915 of Title 52, Chapter 4, Open and Public Meetings Act.

2916 (6) The board may seal the file and the evidence produced at the hearing if the evidence
2917 raises questions about an employee's character, professional competence, or physical or mental
2918 health.

2919 Section 62. **Effective date.**

2920 This bill takes effect on May 1, 2006, except that the amendments to Section
2921 63A-1-114 (Effective 07/01/06) take effect on July 1, 2006.

Legislative Review Note

as of 10-19-05 12:12 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Interim Committee Note

as of 12-21-05 7:17 AM

The Government Operations Interim Committee recommended this bill.