



- 28           ▶ modifies provisions governing shared records procedures and application;
- 29           ▶ modifies provisions and requirements regulating records that must be disclosed;
- 30           ▶ provides that personal and financial information submitted to or received by a
- 31 Senate confirmation committee is a private record;
- 32           ▶ provides that personal emails or similar electronic addresses of current or former
- 33 government employees or applicants are private records;
- 34           ▶ provides protected status for certain records of the Office of the Utah State Auditor
- 35 and Office of Legislative Auditor General;
- 36           ▶ provides that records may be classified as protected if they are prepared in
- 37 anticipation of litigation;
- 38           ▶ provides that work product records may be classified as protected if the record
- 39 involves anticipated or pending litigation;
- 40           ▶ modifies the protected record status of documents prepared, received, or maintained
- 41 by a legislator;
- 42           ▶ modifies the protected record status of communications between legislators and
- 43 staff in relation to performance of their official duties;
- 44           ▶ provides that records concerning a governmental entity's strategy may be classified
- 45 as protected if the record is prepared for anticipated litigation, rather than only for
- 46 pending litigation;
- 47           ▶ provides protected status for internal communications and working papers of the
- 48 governor's office and modifies provisions limiting the length of protected status
- 49 coverage for certain records of the governor;
- 50           ▶ provides that data and working papers associated with a fiscal note for legislation
- 51 are protected until the legislation has passed;
- 52           ▶ provides protected status for personal email addresses and similar electronic
- 53 addresses in some situations;
- 54           ▶ prohibits a governmental entity's chief administrative officer, the records
- 55 committee, and a court from releasing certain protected records via means of a
- 56 balancing test unless it is determined, by a preponderance of the evidence, that the
- 57 public interest favoring access to the record outweighs the interest favoring
- 58 restriction of access to the record;

- 59           ▶ provides that the Legislature may adopt policies regarding the receipt, processing,
- 60 and response to record requests;
- 61           ▶ rewrites and reorganizes the section addressing the act's application to the
- 62 Legislature;
- 63           ▶ addresses legislative compliance requirements with Title 63G, Chapter 2, Part 9,
- 64 Public Associations; and
- 65           ▶ makes technical changes.

66 **Money Appropriated in this Bill:**

67           None

68 **Other Special Clauses:**

69 **This bill ~~§~~→ [provides an immediate effective date.] takes effect on July 1, 2011. ←§**

70 **Utah Code Sections Affected:**

71 AMENDS:

- 72           **20A-2-104**, as last amended by Laws of Utah 2010, Chapter 197
- 73           **58-1-301**, as last amended by Laws of Utah 2008, Chapter 382
- 74           **61-1-4**, as last amended by Laws of Utah 2009, Chapter 351
- 75           **61-2f-203**, as renumbered and amended by Laws of Utah 2010, Chapter 379
- 76           **63G-2-103**, as last amended by Laws of Utah 2010, Chapter 366
- 77           **63G-2-203**, as last amended by Laws of Utah 2009, Chapter 183
- 78           **63G-2-204**, as last amended by Laws of Utah 2010, Chapter 380
- 79           **63G-2-206**, as last amended by Laws of Utah 2009, Chapter 344
- 80           **63G-2-301**, as last amended by Laws of Utah 2009, Chapter 344
- 81           **63G-2-302**, as last amended by Laws of Utah 2010, Chapters 36 and 379
- 82           **63G-2-303**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 83           **63G-2-305**, as last amended by Laws of Utah 2010, Chapters 6, 113, and 247
- 84           **63G-2-401**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 85           **63G-2-403**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 86           **63G-2-404**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 87           **63G-2-703**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 88           **63G-2-803**, as last amended by Laws of Utah 2009, Chapter 44

89 ENACTS:

90 63A-12-109, Utah Code Annotated 1953

91 REPEALS:

92 63G-2-102, as renumbered and amended by Laws of Utah 2008, Chapter 382

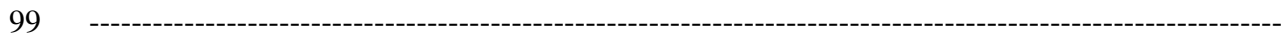


94 *Be it enacted by the Legislature of the state of Utah:*

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

96 **20A-2-104. Voter registration form -- Registered voter lists -- Fees for copies.**

97 (1) Every person applying to be registered shall complete a registration form printed in  
98 substantially the following form:



100 UTAH ELECTION REGISTRATION FORM

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

102 Will you be 18 years old on or before election day? Yes No

103 If you checked "no" to either of the above two questions, do not complete this form.

104 Name of Voter

105 \_\_\_\_\_

106 First Middle Last

107 Utah Driver License or Utah Identification Card Number \_\_\_\_\_

108 Date of Birth \_\_\_\_\_

109 Street Address of Principal Place of Residence

110 \_\_\_\_\_

111 City County State Zip Code

112 Telephone Number (optional) \_\_\_\_\_

113 Last four digits of Social Security Number \_\_\_\_\_

114 Last former address at which I was registered to vote (if  
115 known) \_\_\_\_\_

116 \_\_\_\_\_

117 City County State Zip Code

118 Political Party

119 (a listing of each registered political party, as defined in Section 20A-8-101 and maintained by

120 the lieutenant governor under Section 67-1a-2, with each party's name preceded by a checkbox)  
121 Unaffiliated (no political party preference) Other (Please specify)\_\_\_\_\_

122 I do swear (or affirm), subject to penalty of law for false statements, that the  
123 information contained in this form is true, and that I am a citizen of the United States and a  
124 resident of the state of Utah, residing at the above address. I will be at least 18 years old and  
125 will have resided in Utah for 30 days immediately before the next election. I am not a  
126 convicted felon currently incarcerated for commission of a felony.

127 Signed and sworn

128 \_\_\_\_\_

129 Voter's Signature

130 \_\_\_\_\_(month/day/year).

131 CITIZENSHIP AFFIDAVIT

132 Name:

133 Name at birth, if different:

134 Place of birth:

135 Date of birth:

136 Date and place of naturalization (if applicable):

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

140 \_\_\_\_\_

141 Signature of Applicant

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

145 NOTICE: IN ORDER TO BE ALLOWED TO VOTE, YOU MUST PRESENT VALID  
146 VOTER IDENTIFICATION TO THE POLL WORKER BEFORE VOTING, WHICH MUST  
147 BE A VALID FORM OF PHOTO IDENTIFICATION THAT SHOWS YOUR NAME AND  
148 PHOTOGRAPH; OR  
149 TWO DIFFERENT FORMS OF IDENTIFICATION THAT SHOW YOUR NAME AND  
150 CURRENT ADDRESS.

151 FOR OFFICIAL USE ONLY

152 Type of I.D. \_\_\_\_\_

153 Voting Precinct \_\_\_\_\_

154 Voting I.D. Number \_\_\_\_\_

155 -----

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

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

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

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

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

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

168 (4) When political parties not listed on the voter registration form qualify as registered  
169 political parties under Title 20A, Chapter 8, Political Party Formation and Procedures, the  
170 lieutenant governor shall inform the county clerks about the name of the new political party  
171 and direct the county clerks to ensure that the voter registration form is modified to include that  
172 political party.

173 (5) Upon receipt of a voter registration form from an applicant, the county clerk or the  
174 clerk's designee shall:

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

176 (b) if the county clerk believes, based upon a review of the form, that a person may be  
177 seeking to register to vote who is not legally entitled to register to vote, refer the form to the  
178 county attorney for investigation and possible prosecution.

179 Section 2. Section **58-1-301** is amended to read:

180 **58-1-301. License application -- Licensing procedure.**

181 (1) (a) Each license applicant shall apply to the division in writing upon forms

182 available from the division. Each completed application shall contain documentation of the  
183 particular qualifications required of the applicant, shall include the applicant's Social Security  
184 number, shall be verified by the applicant, and shall be accompanied by the appropriate fees.

185 (b) An applicant's Social Security number is a private record under [~~Subsection~~  
186 ~~63G-2-302(1)(h)~~] Section 63G-2-302.

187 (2) (a) A license shall be issued to an applicant who submits a complete application if  
188 the division determines that the applicant meets the qualifications of licensure.

189 (b) A written notice of additional proceedings shall be provided to an applicant who  
190 submits a complete application, but who has been, is, or will be placed under investigation by  
191 the division for conduct directly bearing upon the applicant's qualifications for licensure, if the  
192 outcome of additional proceedings is required to determine the division's response to the  
193 application.

194 (c) A written notice of denial of licensure shall be provided to an applicant who  
195 submits a complete application if the division determines that the applicant does not meet the  
196 qualifications of licensure.

197 (d) A written notice of incomplete application and conditional denial of licensure shall  
198 be provided to an applicant who submits an incomplete application. This notice shall advise  
199 the applicant that the application is incomplete and that the application is denied, unless the  
200 applicant corrects the deficiencies within the time period specified in the notice and otherwise  
201 meets all qualifications for licensure.

202 (3) Before any person is issued a license under this title, all requirements for that  
203 license as established under this title and by rule shall be met.

204 (4) If all requirements are met for the specific license, the division shall issue the  
205 license.

206 Section 3. Section **61-1-4** is amended to read:

207 **61-1-4. Licensing and notice filing procedure.**

208 (1) (a) A broker-dealer, agent, investment adviser, or investment adviser representative  
209 shall obtain an initial or renewal license by filing with the division or its designee an  
210 application together with a consent to service of process under Section 61-1-26.

211 (b) (i) The application shall contain the applicant's Social Security number and  
212 whatever information the division by rule requires concerning such matters as:

- 213 (A) the applicant's form and place of organization;
- 214 (B) the applicant's proposed method of doing business;
- 215 (C) (I) the qualifications and business history of the applicant; and
- 216 (II) in the case of a broker-dealer or investment adviser, the qualifications and business
- 217 history of any partner, officer, or director, any person occupying a similar status or performing
- 218 similar functions, or any person directly or indirectly controlling the broker-dealer or
- 219 investment adviser;
- 220 (D) whether the applicant has been subject to:
- 221 (I) an injunction, administrative order, or misdemeanor conviction involving a security
- 222 or any aspect of the securities business; or
- 223 (II) a felony conviction; and
- 224 (E) the applicant's financial condition and history.
- 225 (ii) An applicant's Social Security number is a private record under [Subsection
- 226 ~~63G-2-302(1)(h)~~ Section 63G-2-302.
- 227 (c) The division may, by rule or order, require an applicant for an initial license to
- 228 publish an announcement of the application in one or more specified newspapers published in
- 229 this state.
- 230 (d) A license or notice filing of a broker-dealer, agent, investment adviser, or
- 231 investment adviser representative expires on December 31 of each year.
- 232 (e) (i) If no denial order is in effect and no proceeding is pending under Section 61-1-6,
- 233 a license becomes effective at noon of the 30th day after an application is filed.
- 234 (ii) The division may by rule or order specify an earlier effective date and may by order
- 235 defer the effective date until noon of the 30th day after the filing of any amendment.
- 236 (iii) Licensing of a broker-dealer automatically constitutes licensing of only one
- 237 partner, officer, director, or a person occupying a similar status or performing similar functions
- 238 as a licensed agent of the broker-dealer.
- 239 (iv) Licensing of an investment adviser automatically constitutes licensing of only one
- 240 partner, officer, director, or a person occupying a similar status or performing similar functions.
- 241 (v) (A) For purposes of the activities of a licensee in this state, during the time period
- 242 that a broker-dealer or investment adviser is licensed in this state:
- 243 (I) the broker-dealer shall maintain a principal; and



244 (II) the investment adviser shall maintain a designated official.

245 (B) The division may by rule made in accordance with Title 63G, Chapter 3, Utah  
246 Administrative Rulemaking Act, provide a process for a person to identify for the division:

247 (I) a principal or designated official at the time a license is issued; and

248 (II) a different principal or designated official if:

249 (Aa) a broker-dealer changes its principal; or

250 (Bb) an investment adviser changes its designated official.

251 (C) A principal or designated official identified in Subsection (1)(e)(v)(A) is not  
252 required to be separately licensed with the division.

253 (2) Except with respect to a federal covered adviser whose only clients are those  
254 described in Subsection 61-1-3(3)(b) or (c), a federal covered adviser shall file with the  
255 division, before acting as a federal covered adviser in this state, a notice filing consisting of the  
256 documents filed with the Securities and Exchange Commission as the division by rule or order  
257 may require.

258 (3) (a) An applicant for an initial or renewal license as a broker-dealer or agent shall  
259 pay a reasonable filing fee as determined under Section 61-1-18.4.

260 (b) An applicant for an initial or renewal license as an investment adviser or  
261 investment adviser representative who is subject to licensing under this chapter shall pay a  
262 reasonable filing fee as determined under Section 61-1-18.4.

263 (c) A person acting as a federal covered adviser in this state shall pay an initial and  
264 renewal notice filing fee as determined under Section 61-1-18.4.

265 (d) If the license or renewal is not granted or the application is withdrawn, the division  
266 shall retain the fee.

267 (4) A licensed broker-dealer or investment adviser may file an application for licensing  
268 of a successor for the unexpired portion of the year. There shall be no filing fee.

269 (5) The division may by rule or order:

270 (a) require a minimum capital for a licensed broker-dealer, subject to the limitations of  
271 Section 15 of the Securities Exchange Act of 1934; and

272 (b) establish minimum financial requirements for an investment adviser:

273 (i) subject to the limitations of Section 222 of the Investment Advisers Act of 1940;

274 and

275 (ii) which may include different requirements for an investment adviser who maintains  
276 custody of or has discretionary authority over client funds or securities and an investment  
277 adviser who does not.

278 (6) (a) The division may by rule or order require a licensed broker-dealer or investment  
279 adviser who has custody of or discretionary authority over client funds or securities to post one  
280 or more bonds in amounts and under conditions as the division may prescribe, subject to the  
281 limitations of Section 15 of the Securities Exchange Act of 1934 for a broker-dealer, and  
282 Section 222 of the Investment Advisers Act of 1940 for an investment adviser.

283 (b) An appropriate deposit of cash or securities may be accepted in lieu of a required  
284 bond.

285 (c) A bond may not be required of a licensee whose net capital, or in the case of an  
286 investment adviser whose minimum financial requirements, which may be defined by rule,  
287 exceeds the amounts required by the division.

288 (d) A bond shall provide for suit on the bond by a person who has a cause of action  
289 under Section 61-1-22 and, if the division by rule or order requires, by any person who has a  
290 cause of action not arising under this chapter.

291 (e) A bond shall provide that a suit may not be maintained to enforce liability on the  
292 bond unless brought before the earlier of:

293 (i) the expiration of five years after the act or transaction constituting the violation; or

294 (ii) the expiration of two years after the discovery by the plaintiff of the facts  
295 constituting the violation.

296 Section 4. Section **61-2f-203** is amended to read:

297 **61-2f-203. Licensing requirements.**

298 (1) (a) Except as provided in Subsection (5), the commission shall determine the  
299 qualifications and requirements of an applicant for:

300 (i) a principal broker license;

301 (ii) an associate broker license; or

302 (iii) a sales agent license.

303 (b) The division, with the concurrence of the commission, shall require and pass upon  
304 proof necessary to determine the honesty, integrity, truthfulness, reputation, and competency of  
305 each applicant for an initial license or for renewal of an existing license.

306 (c) (i) The division, with the concurrence of the commission, shall require an applicant  
307 for:

308 (A) a sales agent license to complete an approved educational program consisting of  
309 the number of hours designated by rule made by the commission with the concurrence of the  
310 division, except that the rule may not require less than 120 hours; and

311 (B) an associate broker or a principal broker license to complete an approved  
312 educational program consisting of the number of hours designated by rule made by the  
313 commission with the concurrence of the division, except that the rule may not require less than  
314 120 hours.

315 (ii) An hour required by this section means 50 minutes of instruction in each 60  
316 minutes.

317 (iii) The maximum number of program hours available to an individual is eight hours  
318 per day.

319 (d) The division, with the concurrence of the commission, shall require the applicant to  
320 pass an examination approved by the commission covering:

321 (i) the fundamentals of:

322 (A) the English language;

323 (B) arithmetic;

324 (C) bookkeeping; and

325 (D) real estate principles and practices;

326 (ii) the provisions of this chapter;

327 (iii) the rules established by the commission; and

328 (iv) any other aspect of Utah real estate license law considered appropriate.

329 (e) (i) Three years' full-time experience as a sales agent or its equivalent is required  
330 before an applicant may apply for, and secure a principal broker or associate broker license in  
331 this state.

332 (ii) The commission shall establish by rule, made in accordance with Title 63G,  
333 Chapter 3, Utah Administrative Rulemaking Act, the criteria by which the commission will  
334 accept experience or special education in similar fields of business in lieu of the three years'  
335 experience.

336 (2) (a) The division, with the concurrence of the commission, may require an applicant

337 to furnish a sworn statement setting forth evidence satisfactory to the division of the applicant's  
338 reputation and competency as set forth by rule.

339 (b) The division shall require an applicant to provide the applicant's Social Security  
340 number, which is a private record under [~~Subsection 63G-2-302(1)(h)~~] Section 63G-2-302.

341 (3) (a) An individual who is not a resident of this state may be licensed in this state if  
342 the person complies with all the provisions of this chapter.

343 (b) An individual who is not a resident of this state may be licensed as an associate  
344 broker or sales agent in this state by:

345 (i) complying with all the provisions of this chapter; and

346 (ii) being employed or engaged as an independent contractor by or on behalf of a  
347 principal broker who is licensed in this state, regardless of whether the principal broker is a  
348 resident of this state.

349 (4) (a) Except as provided in Subsection 61-2f-204(1)(e)(vi), the division and  
350 commission shall treat an application to be relicensed of an applicant whose real estate license  
351 is revoked as an original application.

352 (b) In the case of an applicant for a new license as a principal broker or associate  
353 broker, the applicant is not entitled to credit for experience gained before the revocation of a  
354 real estate license.

355 (5) (a) Notwithstanding Subsection (1), the commission may delegate to the division  
356 the authority to:

357 (i) review a class or category of applications for initial or renewed licenses;

358 (ii) determine whether an applicant meets the licensing criteria in Subsection (1); and

359 (iii) approve or deny a license application without concurrence by the commission.

360 (b) (i) If the commission delegates to the division the authority to approve or deny an  
361 application without concurrence by the commission and the division denies an application for  
362 licensure, the applicant who is denied licensure may petition the commission for review of the  
363 denial of licensure.

364 (ii) An applicant who is denied licensure pursuant to this Subsection (5) may seek  
365 agency review by the executive director only after the commission has reviewed the division's  
366 denial of the applicant's application.

367 Section 5. Section **63A-12-109** is enacted to read:

368 **63A-12-109. Applicability of chapter.**

369 This chapter, with the exception of Sections 63A-12-102 and 63A-12-106, does not  
370 apply to the legislative branch of state government.

371 Section 6. Section **63G-2-103** is amended to read:

372 **63G-2-103. Definitions.**

373 As used in this chapter:

374 (1) "Audit" means:

375 (a) a systematic examination of financial, management, program, and related records  
376 for the purpose of determining the fair presentation of financial statements, adequacy of  
377 internal controls, or compliance with laws and regulations; or

378 (b) a systematic examination of program procedures and operations for the purpose of  
379 determining their effectiveness, economy, efficiency, and compliance with statutes and  
380 regulations.

381 (2) "Chronological logs" mean the regular and customary summary records of law  
382 enforcement agencies and other public safety agencies that show:

383 (a) the time and general nature of police, fire, and paramedic calls made to the agency;  
384 and

385 (b) any arrests or jail bookings made by the agency.

386 (3) "Classification," "classify," and their derivative forms mean determining whether a  
387 record series, record, or information within a record is public, private, controlled, protected, or  
388 exempt from disclosure under Subsection 63G-2-201(3)(b).

389 (4) (a) "Computer program" means:

390 (i) a series of instructions or statements that permit the functioning of a computer  
391 system in a manner designed to provide storage, retrieval, and manipulation of data from the  
392 computer system; and

393 (ii) any associated documentation and source material that explain how to operate the  
394 computer program.

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

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

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

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

402 (5) (a) "Contractor" means:

403 (i) any person who contracts with a governmental entity to provide goods or services  
404 directly to a governmental entity; or

405 (ii) any private, nonprofit organization that receives funds from a governmental entity.

406 (b) "Contractor" does not mean a private provider.

407 (6) "Controlled record" means a record containing data on individuals that is  
408 ~~[controlled as provided by]~~ classified as "controlled" under Section 63G-2-304.

409 (7) "Designation," "designate," and their derivative forms mean indicating, based on a  
410 governmental entity's familiarity with a record series or based on a governmental entity's  
411 review of a reasonable sample of a record series, the primary classification that a majority of  
412 records in a record series would be given if classified and the classification that other records  
413 typically present in the record series would be given if classified.

414 (8) "Elected official" means each person elected to a state office, county office,  
415 municipal office, school board or school district office, local district office, or special service  
416 district office, but does not include judges.

417 (9) "Explosive" means a chemical compound, device, or mixture:

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

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

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

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

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

425 (B) causing death or serious bodily injury.

426 (10) "Government audit agency" means any governmental entity that conducts an audit.

427 (11) (a) "Governmental entity" means:

428 (i) executive department agencies of the state, the offices of the governor, lieutenant  
429 governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole,

430 the Board of Examiners, the National Guard, the Career Service Review Board, the State Board  
431 of Education, the State Board of Regents, and the State Archives;

432 (ii) the Senate, House of Representatives, Legislative Printing Office, Office of the  
433 Legislative Auditor General, Office of the Legislative Fiscal Analyst, Office of Legislative  
434 Research and General Counsel, [the Legislature, and legislative committees, except any  
435 political party, group, caucus, or rules or sifting committee of the Legislature] a legislative  
436 committee, a legislative task force, or a legislative commission;

437 (iii) courts, the Judicial Council, the Office of the Court Administrator, and similar  
438 administrative units in the judicial branch;

439 (iv) any state-funded institution of higher education or public education; or

440 (v) any political subdivision of the state, [~~but, if a political subdivision has adopted an~~  
441 ~~ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this~~  
442 ~~chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or~~  
443 ~~as specified in any other section of this chapter that specifically refers to political subdivisions]~~  
444 except for the exclusions specifically provided in Section 63G-2-701.

445 (b) "Governmental entity" also means [~~every~~] each office, agency, board, bureau,  
446 committee, department, advisory board, or commission of an entity listed in Subsection (11)(a)  
447 that is funded or established by the government to carry out the public's business.

448 (c) "Governmental entity" does not mean:

449 (i) a political party, group, or caucus; or

450 (ii) a rules or sifting committee of the Legislature.

451 (12) "Gross compensation" means every form of remuneration payable for a given  
452 period to an individual for services provided including salaries, commissions, vacation pay,  
453 severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any  
454 similar benefit received from the individual's employer.

455 (13) "Individual" means a human being.

456 (14) (a) "Initial contact report" means an initial written or recorded report, however  
457 titled, prepared by peace officers engaged in public patrol or response duties describing official  
458 actions initially taken in response to either a public complaint about or the discovery of an  
459 apparent violation of law, which [~~report~~] may [~~describe~~] include:

460 (i) the date, time, location, and nature of the complaint, the incident, or offense;

- 461 (ii) names of victims;
- 462 (iii) the nature or general scope of the agency's initial actions taken in response to the  
463 incident;
- 464 (iv) the general nature of any injuries or estimate of damages sustained in the incident;
- 465 (v) the name, address, and other identifying information about any person arrested or  
466 charged in connection with the incident; or
- 467 (vi) the identity of the public safety personnel, except undercover personnel, or  
468 prosecuting attorney involved in responding to the initial incident.

469 (b) ~~[Initial]~~ Subject to Subsection (14)(c), "initial contact ~~[reports do not include]~~  
470 report" does not include follow-up or investigative reports prepared after the initial contact  
471 report. ~~[However, if the information specified in Subsection (14)(a) appears in follow-up or~~  
472 ~~investigative reports, it may only be treated confidentially if it is private, controlled, protected,~~  
473 ~~or exempt from disclosure under Subsection 63G-2-201(3)(b).]~~

474 (c) "Initial contact report" includes information specified in Subsections (14)(a)(i)  
475 through (vi) if the information appears in a follow-up or investigative report unless the  
476 information is private, controlled, protected, or exempt from disclosure under Subsection  
477 63G-2-201(3)(b).

478 (15) ~~["Legislative body" means the Legislature.]~~ "Legislative staff employee" means an  
479 employee of the Senate, House of Representatives, Legislative Printing Office, Office of  
480 Legislative Auditor General, Office of Legislative Fiscal Analyst, or Office of Legislative  
481 Research and General Counsel.

482 (16) (a) "Legislature" means the Senate, House of Representatives, Legislative Printing  
483 Office, Office of Legislative Auditor General, Office of Legislative Fiscal Analyst, Office of  
484 Legislative Research and General Counsel, a legislative committee, a legislative task force, a  
485 legislative commission, or any other office or subdivision of the legislative branch of state  
486 government.

487 (b) For purposes of regulation by this chapter, "Legislature" does not include:

- 488 (i) a political party, group, or caucus; or
- 489 (ii) a rules or sifting committee of the Legislature.

490 ~~[(16)]~~ (17) "Notice of compliance" means a statement confirming that a governmental  
491 entity has complied with a records committee order.



492 ~~[(17)]~~ (18) "Person" means:

493 (a) an individual;

494 (b) a nonprofit or profit corporation;

495 (c) a partnership;

496 (d) a sole proprietorship;

497 (e) any other type of business organization; or

498 (f) any combination of Subsections (18)(a) through (e) acting in concert with one  
499 another.

500 ~~[(18)]~~ (19) "Private provider" means any person who contracts with a governmental  
501 entity to provide services directly to the public.

502 ~~[(19)]~~ (20) "Private record" means a record containing data on individuals that is  
503 classified as "private" ~~[as provided by]~~ under Section 63G-2-302.

504 ~~[(20)]~~ (21) "Protected record" means a record that is classified as "protected" ~~[as  
505 provided by]~~ under Section 63G-2-305.

506 ~~[(21)]~~ (22) "Public record" means a record that is not private, controlled, or protected  
507 and that is not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).

508 ~~[(22)]~~ (23) (a) "Record" means a book, letter, document, paper, map, plan, photograph,  
509 film, card, tape, recording, electronic data, or other documentary material regardless of physical  
510 form or characteristics:

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

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

515 (b) "Record" does not mean:

516 ~~[(i) a personal note or personal communication]~~

517 (i) material in the following format:

518 (A) a voice mail message, or an electronic reproduction or textual representation of a  
519 voice mail message;

520 (B) an instant message, or a similar document, other than an email, that is  
521 electronically exchanged in the manner of a contemporaneous conversation, unless the  
522 exchange is an electronic meeting as governed by Section 52-4-207;

523 (C) a video chat, or similar transmission, whether or not the chat or transmission is  
524 saved in a retrievable form, that is electronically transmitted and has the form or content of a  
525 contemporaneous conversation, unless the video chat or transmission is an electronic meeting  
526 as governed by Section 52-4-207; or

527 (D) a text message, or similar text-based document, other than an email, that is  
528 electronically exchanged by means of a phone number;

529 (ii) a note prepared by an employee or officer of a governmental entity for the  
530 employee's or officer's own use or reference;

531 (iii) an oral, written, or video communication prepared or received by an employee or  
532 officer of a governmental entity [in the] in a capacity other than the employee's or officer's  
533 [private capacity] official governmental capacity;

534 [(ii)] (iv) a [temporary] draft or similar material prepared for the originator's [personal]  
535 use or prepared by the originator for the [personal] use of an individual for whom the originator  
536 is working;

537 [(iii)] (v) material that is legally owned by an individual [in the individual's private  
538 capacity] and unrelated to the individual's official governmental duties;

539 [(iv)] (vi) material to which access is limited by the laws of copyright or patent unless  
540 the copyright or patent is owned by a governmental entity or political subdivision;

541 [(v)] (vii) proprietary software;

542 [(vi)] (viii) junk mail or a commercial publication received by a governmental entity or  
543 an official or employee of a governmental entity;

544 [(vii)] (ix) a book that is cataloged, indexed, or inventoried and contained in the  
545 collections of a library open to the public;

546 [(viii)] (x) material that is cataloged, indexed, or inventoried and contained in the  
547 collections of a library open to the public, regardless of physical form or characteristics of the  
548 material;

549 [(ix)] (xi) a daily calendar [or other personal note] prepared by the originator for the  
550 originator's [personal] use or for the [personal] use of an individual for whom the originator is  
551 working;

552 [(x)] (xii) a computer program that is developed or purchased by or for any  
553 governmental entity for its own use;

554            [~~(xi)~~] (xiii) a note or internal memorandum prepared as part of the deliberative process  
555 by:

556            (A) a member of the judiciary;

557            (B) an administrative law judge;

558            (C) a member of the Board of Pardons and Parole; or

559            (D) a member of [~~any other body~~] a governmental entity charged by law with  
560 performing a quasi-judicial function;

561            [~~(xii)~~] (xiv) a telephone number or similar code used to access a mobile  
562 communication device that is used by an employee or officer of a governmental entity,  
563 provided that the employee or officer of the governmental entity has designated at least one  
564 business telephone number that is a public record as provided in Section 63G-2-301;

565            [~~(xiii)~~] (xv) information provided by the Public Employees' Benefit and Insurance  
566 Program, created in Section 49-20-103, to a county to enable the county to calculate the  
567 amount to be paid to a health care provider under Subsection 17-50-319(2)(e)(ii); or

568            [~~(xiv)~~] (xvi) information that an owner of unimproved property provides to a local  
569 entity as provided in Section 11-42-205.

570            [~~(23)~~] (24) "Record series" means a group of records that may be treated as a unit for  
571 purposes of designation, description, management, or disposition.

572            [~~(24)~~] (25) "Records committee" means the State Records Committee created in  
573 Section 63G-2-501.

574            [~~(25)~~] (26) "Records officer" means the individual appointed by the chief  
575 administrative officer of each governmental entity[;] or [~~the~~] political subdivision to work with  
576 State Archives in the care, maintenance, scheduling, designation, classification, disposal, and  
577 preservation of records.

578            [~~(26)~~] (27) "Schedule," "scheduling," and their derivative forms mean the process of  
579 specifying the length of time each record series should be retained by a governmental entity for  
580 administrative, legal, fiscal, or historical purposes and when each record series should be  
581 transferred to the state archives or destroyed.

582            [~~(27)~~] (28) "Sponsored research" means research, training, and other sponsored  
583 activities as defined by the federal Executive Office of the President, Office of Management  
584 and Budget that is:

585 (a) conducted~~[(i)]~~ by an institution within the state system of higher education defined  
 586 in Section 53B-1-102~~[-and-(ii)]~~ through an office responsible for sponsored projects or  
 587 programs; and

588 (b) funded or otherwise supported by ~~[an external]~~:

589 (i) an external person that is not created or controlled by the institution within the state  
 590 system of higher education; or

591 (ii) an external federal, state, or local governmental entity.

592 ~~[(28)]~~ (29) "State archives" means the Division of Archives and Records Service  
 593 created in Section 63A-12-101.

594 ~~[(29)]~~ (30) "State archivist" means the director of the state archives.

595 ~~[(30)]~~ (31) "Summary data" means statistical records and compilations that contain  
 596 data derived from private, controlled, or protected information but that do not disclose private,  
 597 controlled, or protected information.

598 (32) "Technical assistance" means the assistance of information technology experts,  
 599 computer technicians, computer programmers, information technology staff members, or  
 600 similarly qualified individuals.

601 Section 7. Section **63G-2-203** is amended to read:

602 **63G-2-203. Fees -- Standard fee -- Establishment of fees -- Additional costs.**

603 (1) (a) A governmental entity may charge a reasonable fee for processing requests for a  
 604 record under this chapter in an amount sufficient to cover the governmental entity's actual cost  
 605 of providing a record~~[-This fee shall be approved by]~~, including costs of overhead and  
 606 administration.

607 (b) (i) For a governmental entity with fees approved by the Legislature, the  
 608 governmental entity's executive officer[-]shall approve each fee and the governmental entity  
 609 shall establish each fee according to the requirements of Section 63J-1-504.

610 (ii) For a political subdivision of the state, the legislative body of the political  
 611 subdivision shall establish each fee by ordinance or a written formal policy.

612 (iii) For the judiciary, the Judicial Council shall establish each fee by rule.

613 (iv) Notwithstanding Subsections (1)(b)(i) and (ii), the lieutenant governor shall, after  
 614 consulting with the county clerks, establish uniform fees for requests for voter registration and  
 615 voter history records according to the procedures and requirements of Section 63J-1-504.

616 (2) (a) ~~[When a governmental entity compiles]~~ In addition to the fees established under  
617 Subsection (1), a governmental entity may charge the cost of each of the following services  
618 performed in relation to a record request:

619 (i) the reasonable cost for copies, duplication, or transmission of records in response to  
620 the record request;

621 (ii) for a record request that requests or requires a record in a form other than that  
622 normally maintained by the governmental entity, [the actual costs under this section may  
623 include the following: (i)] the actual cost of [staff time] labor for compiling, formatting,  
624 manipulating, packaging, summarizing, or tailoring the record either into an organization or  
625 media to meet the person's request;

626 ~~[(ii)]~~ (iii) for a record request that necessitates the review of a large number of records,  
627 the actual cost of [staff time] labor for search, retrieval, and [other direct administrative costs  
628 for complying with a request] organization or classification of the records;

629 (iv) for a record request that requires production of records, or a record series  
630 containing a substantial number of records, the actual cost of labor for review, organization,  
631 and classification of the records;

632 (v) for a record request that necessitates segregation of information or extensive editing  
633 or redacting, the actual cost of labor for review, segregation, editing, and redacting of the  
634 records;

635 (vi) for a records request that requires legal review in order to process or respond to the  
636 request, or to classify records, the actual cost of labor for legal review and recommendations  
637 required in relation to the request; and

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

643 (vii) for a record request that necessitates technical assistance or other professional  
644 services in order to locate, search, retrieve, organize, review, reproduce, or classify records in  
645 response to the request, the actual cost of labor to perform the technical assistance or other  
646 professional services.

647 (b) ~~[An hourly charge]~~ In calculating the actual cost of labor charged under Subsection  
 648 (2)(a) [may not exceed the salary of the lowest paid employee who, in the discretion of the  
 649 custodian of records, has the necessary skill and training to perform the request.], a  
 650 governmental entity:

651 (i) shall, for a service performed by an employee of the governmental entity, charge the  
 652 actual hourly pay rate of each employee performing a service in response to the request ~~H→~~, or the  
 652a actual hourly pay rate of the lowest paid employee available to perform the service who, in the  
 652b discretion of the custodian of records, has the job classification and training necessary to  
 652c perform the service, whichever is lower ~~H~~ ;

653 (ii) shall, for a service performed by a person who is not an employee of the  
 654 governmental entity, charge the actual rate charged to the governmental entity for each service  
 655 performed in response to the request ~~H→~~, provided that the service provider certifies that the  
 655a rates charged are not higher than the actual hourly pay rate of the lowest paid person having  
 655b the job classification and training necessary to perform the service ~~H~~ ; and

656 (iii) may not include the first quarter hour of time required to perform the service.

657 (c) When assessing an additional cost under Subsection (2)(a), a governmental entity  
 658 shall:

659 (i) document the actual cost of labor in a manner that clearly identifies the hours and  
 660 rate applied to each service and the actual cost of third party services charged to the  
 661 governmental entity; and

662 (ii) provide the documentation to each requestor that is being assessed an additional  
 663 cost for services in support of the additional cost assessed.

664 ~~[(c) Notwithstanding Subsections (2)(a) and (b), no charge may be made for the first~~  
 665 ~~quarter hour of staff time.]~~

666 ~~[(3) (a) Fees shall be established as provided in this Subsection (3).]~~

667 ~~[(b) A governmental entity with fees established by the Legislature:]~~

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

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

672 ~~[(c) Political subdivisions shall establish fees by ordinance or written formal policy~~  
 673 ~~adopted by the governing body.]~~

674 ~~[(d) The judiciary shall establish fees by rules of the judicial council.]~~

675 ~~[(4)]~~ (3) A governmental entity may choose to fulfill a record request without [charge  
 676 and is encouraged to do so when] a fee or cost assessment, or for a reduced fee or cost  
 677 assessment if it determines [that]:

678 (a) that waiving or reducing the fee or cost assessment is an appropriate use of taxpayer  
 679  funds and resources; and

680 (b) that:

681 ~~[(a)]~~ (i) releasing the record primarily benefits the public rather than a person;

682 ~~[(b)]~~ (ii) the individual requesting the record is the subject of the record, or an  
 683 individual specified in Subsection 63G-2-202(1) or (2); or

684 ~~[(c)]~~ (iii) the requester's legal rights are directly implicated by the information in the  
 685 record, and the requester is impecunious.

686 ~~[(5)]~~ (4) A governmental entity may not charge a fee or assess a cost for:

687 (a) reviewing ~~[a record]~~ request for a governmental entity to determine whether ~~[it]~~ a  
 688 single, specifically identified record is subject to disclosure~~[-, except as permitted by Subsection~~  
 689 ~~(2)(a)(ii)]~~ unless searching for, retrieving, reproducing, or classifying the record requires efforts  
 690 as described in Subsection (2)(a); or

691 (b) inspecting a readily accessible public record.

692 ~~[(6)]~~ (5) (a) A person who believes that there has been an ~~[unreasonable]~~ abuse of  
 693 discretion in the denial of a fee or cost waiver under ~~[Subsection (4)]~~ this section may appeal  
 694 the denial in the same manner as a person appeals when inspection of a public record is denied  
 695 under Section 63G-2-205.

696 (b) The adjudicative body hearing the appeal has the same authority when a fee or cost  
 697 waiver or reduction is denied as it has when the inspection of a public record is denied.

698 ~~[(7)(a) AH]~~ (6) The governmental entity that receives fees [received] or costs under  
 699 this section ~~[by a governmental entity subject to Subsection (3)(b) shall be retained by the~~  
 700 ~~governmental entity]~~ shall retain the fees as a dedicated credit~~[- (b) Those funds shall be used~~  
 701 ~~to recover the actual]~~ in order to reimburse the governmental entity for the cost and expenses  
 702 incurred by the governmental entity in providing the requested record or record series.

703 ~~[(8)]~~ (7) (a) A governmental entity may require payment of past fees or costs and future  
 704 estimated fees or costs before beginning to process a request if:

705 (i) fees or costs are expected to exceed \$50; or

706 (ii) the requester has not paid fees or costs from previous requests.

707 (b) ~~[Any]~~ The governmental entity shall return any prepaid amount [in excess of fees  
 708 due shall be returned] that exceeds the actual fees and costs due to the requester.

709           ~~[(9)]~~ (8) This section does not alter, repeal, or reduce fees established by other statutes  
710 or legislative acts.

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

713           ~~[(b) The lieutenant governor shall:]~~

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

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

718           Section 8. Section **63G-2-204** is amended to read:

719           **63G-2-204. Requests -- Time limit for response and extraordinary circumstances.**

720           (1) A person making a request for a record shall furnish the governmental entity with a  
721 written request containing:

722           (a) the person's name, mailing address, and daytime telephone number, if available;

723 and

724           (b) a description of the record requested that identifies the record with reasonable  
725 specificity.

726           (2) (a) Subject to Subsection (2)(b), a person making a request for a record shall submit  
727 the request to the governmental entity that prepares, owns, or retains the record.

728           (b) In response to a request for a record, a governmental entity may not provide a  
729 record that it has received under Section 63G-2-206 as a shared record if the record was shared  
730 for the purpose of auditing, if the governmental entity is authorized by state statute to conduct  
731 an audit.

732           (c) If a governmental entity is prohibited from providing a record under Subsection  
733 (2)(b), it shall:

734           (i) deny the records request; and

735           (ii) inform the person making the request that records requests must be submitted to the  
736 governmental entity that prepares, owns, or retains the record.

737           (d) A governmental entity may make rules in accordance with Title 63G, Chapter 3,  
738 Utah Administrative Rulemaking Act, specifying where and to whom requests for access shall  
739 be directed.



740 (3) After receiving a request for a record, a governmental entity shall:  
741 (a) review each request that seeks an expedited response and notify, within five  
742 business days after receiving the request, each requester that has not demonstrated that their  
743 record request benefits the public rather than the person that their response will not be  
744 expedited; and  
745 (b) as soon as reasonably possible, but no later than 10 business days after receiving a  
746 written request, or five business days after receiving a written request if the requester  
747 demonstrates that expedited response to the record request benefits the public rather than the  
748 person:  
749 (i) approve the request and provide a copy of the record;  
750 (ii) deny the request in accordance with the procedures and requirements of Section  
751 63G-2-205;  
752 (iii) notify the requester that it does not maintain the record requested and provide, if  
753 known, the name and address of the governmental entity that does maintain the record; or  
754 (iv) notify the requester that because of one of the extraordinary circumstances listed in  
755 Subsection (5), it cannot immediately approve or deny the request, and include with the notice:  
756 (A) a description of the circumstances that constitute the extraordinary circumstances;  
757 and  
758 (B) the date when the records will be available, consistent with the requirements of  
759 Subsection (6).  
760 (4) Any person who requests a record to obtain information for a story or report for  
761 publication or broadcast to the general public is presumed to be acting to benefit the public  
762 rather than a person.  
763 (5) The following circumstances constitute "extraordinary circumstances" that allow a  
764 governmental entity to delay approval or denial by an additional period of time as specified in  
765 Subsection (6) if the governmental entity determines that due to the extraordinary  
766 circumstances it cannot respond within the time limits provided in Subsection (3):  
767 (a) another governmental entity is using the record, in which case the originating  
768 governmental entity shall promptly request that the governmental entity currently in possession  
769 return the record;  
770 (b) another governmental entity is using the record as part of an audit, and returning the

771 record before the completion of the audit would impair the conduct of the audit;

772 (c) (i) the request is for a [~~voluminous~~] substantial quantity of records or for a record  
773 series containing a substantial number of records;

774 (ii) the request requires the review or classification of a substantial number of records;  
775 or

776 [~~(ii)~~] (iii) the requester seeks a substantial number of records or records series in  
777 requests filed within five working days of each other;

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

779 (e) the request requires the governmental entity to review a large number of documents  
780 or records in order to locate the records requested;

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

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

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

788 (6) If one of the extraordinary circumstances [~~listed~~] as described in Subsection (5)  
789 precludes approval or denial within the time specified in Subsection (3), the following time  
790 limits apply [~~to the extraordinary circumstances~~]:

791 (a) for claims under Subsection (5)(a), the governmental entity currently in possession  
792 of the record shall return the record to the originating entity within five business days of the  
793 request for the return unless returning the record would impair the holder's work;

794 (b) for claims under Subsection (5)(b), the originating governmental entity shall notify  
795 the requester when the record is available for inspection and copying;

796 (c) for claims under Subsections (5)(c), (d), and (e), the governmental entity shall:

797 (i) disclose the records that it has located which the requester is entitled to inspect;

798 (ii) provide the requester with an estimate of the amount of time it will take to finish  
799 the work required to respond to the request;

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

802 (iv) for any person that does not establish a right to an expedited response as  
803 authorized by Subsection (3)(a), a governmental entity may choose to:

804 (A) require the person to provide for copying of the records as provided in Subsection  
805 63G-2-201(9); or

806 (B) treat a request for multiple records as separate record requests, and respond  
807 sequentially to each request;

808 (d) for claims under Subsection (5)(f), the governmental entity shall either approve or  
809 deny the request within five business days after the response time specified for the original  
810 request has expired;

811 (e) for claims under Subsection (5)(g), the governmental entity shall fulfill the request  
812 within 15 business days from the date of the original request; or

813 (f) for claims under Subsection (5)(h), the governmental entity shall complete its  
814 programming and disclose the requested records as soon as reasonably possible.

815 (7) (a) If a request for access is submitted to an office of a governmental entity other  
816 than that specified by rule in accordance with Subsection (2), the office shall promptly forward  
817 the request to the appropriate office.

818 (b) If the request is forwarded promptly, the time limit for response begins when the  
819 record is received by the office specified by rule.

820 (8) If the governmental entity fails to provide the requested records or issue a denial  
821 within the specified time period, that failure is considered the equivalent of a determination  
822 denying access to the record.

823 Section 9. Section **63G-2-206** is amended to read:

824 **63G-2-206. Sharing records.**

825 (1) As used in this section, "legislative entity" means:

826 (a) the Senate or House of Representatives;

827 (b) a legislative committee, legislative task force, or legislative commission;

828 (c) a member of the Senate or House of Representatives; or

829 (d) a legislative staff employee acting at the request of the Senate, House of

830 Representatives, a legislative committee, a legislative task force, a legislative commission, or a  
831 member of the Senate or House of Representatives.

832 [(+)] (2) A governmental entity may provide a record [~~that is~~] that is classified as

833 private, controlled, or protected to another governmental entity, a government-managed  
 834 corporation, a political subdivision, the federal government, or another state if the requesting  
 835 entity:

836 (a) serves as a repository or archives for purposes of historical preservation,  
 837 administrative maintenance, or destruction;

838 (b) enforces, litigates, or investigates civil, criminal, or administrative law, and the  
 839 record is necessary to a proceeding or investigation;

840 (c) is authorized by ~~[state statute]~~ the Utah Constitution or state law to conduct an audit  
 841 and the auditor determines that the record is needed for that purpose; or

842 (d) ~~[is one that]~~ collects information for presentence, probationary, or parole purposes[;  
 843 or].

844 ~~[(e) (i) is:]~~

845 ~~[(A) the Legislature;]~~

846 ~~[(B) a legislative committee;]~~

847 ~~[(C) a member of the Legislature; or]~~

848 ~~[(D) a legislative staff member acting at the request of the Legislature, a legislative  
 849 committee, or a member of the Legislature; and]~~

850 ~~[(ii)]~~ (3) A governmental entity may provide a record that is classified as private,  
 851 controlled, or protected to a legislative entity when the legislative entity requests the record in  
 852 relation to the Legislature's duties including:

853 ~~[(A)]~~ (a) the preparation or review of a legislative proposal or legislation;

854 ~~[(B)]~~ (b) appropriations; or

855 ~~[(C)]~~ (c) an investigation or review conducted by the Legislature or a legislative  
 856 committee, legislative task force, or legislative commission.

857 ~~[(2)]~~ (4) (a) A governmental entity may provide a private, controlled, or protected

858 record or record series to another governmental entity, a legislative entity, a political

859 subdivision, a government-managed corporation, the federal government, or another state if the  
 860 requesting entity provides written assurance:

861 (i) that the record or record series is necessary to the performance of the duties and

862 functions of the governmental ~~[entity's duties and functions]~~ entity, legislative entity, political

863 subdivision, government-managed corporation, the federal government, or the other state;

864 (ii) that the record or record series will be used for a purpose similar to the purpose for  
865 which the information in the record or record series was collected or obtained; and

866 (iii) that the use of the record or record series produces a public benefit that outweighs  
867 the individual privacy right that protects the record or record series.

868 (b) A governmental entity may provide a private, controlled, or protected record or  
869 record series to a contractor or a private provider according to the requirements of Subsection  
870 ~~[(6)]~~ (8)(b).

871 ~~[(3)]~~ (5) (a) A governmental entity shall provide a private, controlled, or protected  
872 record to another governmental entity, a legislative entity, a political subdivision, a  
873 government-managed corporation, the federal government, or another state if the requesting  
874 entity:

875 (i) is entitled by law to inspect the record;

876 (ii) is required to inspect the record as a condition of participating in a state or federal  
877 program or for receiving state or federal funds; or

878 (iii) is an entity described in Subsection ~~[(1)]~~ (2)(a), (b), (c), (d), (3), or ~~[(e)]~~ (4).

879 (b) Subsection ~~[(3)]~~ (5)(a)(iii) applies only if the record is a record described in  
880 Subsection 63G-2-305(4).

881 ~~[(4)]~~ (6) Before disclosing a record or record series under this section to another  
882 governmental entity, a legislative entity, another state, the United States, a foreign government,  
883 or to a contractor or private provider, the originating governmental entity shall:

884 (a) inform the recipient of the record's classification and the accompanying restrictions  
885 on access; and

886 (b) if the recipient is not a governmental entity to which this chapter applies, obtain the  
887 recipient's written agreement ~~[which may be]~~, either by mechanical or electronic transmission,  
888 that ~~[it]~~ the recipient will abide by those restrictions on access unless a statute, federal  
889 regulation, or interstate agreement otherwise governs the sharing of the record or record series.

890 ~~[(5)]~~ (7) A governmental entity may disclose a record to another state, the United  
891 States, or a foreign government for the reasons listed in Subsections ~~[(1)]~~ (2) and ~~[(2)]~~ (4)  
892 without complying with the procedures of Subsection ~~[(2)]~~ (4) or ~~[(4)]~~ (6) if disclosure is  
893 authorized by executive agreement, treaty, federal statute, compact, federal regulation, or state  
894 statute.

895           ~~[(6)]~~ (8) (a) Subject to Subsections ~~[(6)]~~ (8)(b) and (c), an entity receiving a record  
896 under this section is ~~[subject to]~~ governed by the same restrictions on disclosure of the private,  
897 protected, or controlled record as the originating entity.

898           (b) A contractor or a private provider may ~~[receive information]~~ obtain a record or  
899 record series under this section only if the originating governmental entity determines and the  
900 contractor or private provider gives written assurance to the originating governmental entity  
901 that:

902           (i) the contractor or private provider's use of the record or record series produces a  
903 public benefit that outweighs the individual privacy right that protects the record or record  
904 series; and

905           (ii) the record or record series ~~[it requests]~~ requested by the contractor or private  
906 provider:

907           (A) is necessary for the performance of a contract with a governmental entity;

908           (B) will only be used for the performance of the contract with the governmental entity;

909           (C) will not be disclosed to any other person; and

910           (D) will not be used for advertising or solicitation purposes~~[-and]~~.

911           ~~[(iii) the contractor or private provider gives written assurance to the governmental~~  
912 ~~entity that is providing the record or record series that it will adhere to the restrictions of this~~  
913 ~~Subsection (6)(b):]~~

914           (c) The classification of a record already held by a governmental entity and the  
915 applicable restrictions on disclosure of that record are not affected by the governmental entity's  
916 receipt under this section of a record with a different classification that contains information  
917 that is also included in the previously held record.

918           ~~[(7)]~~ (9) Notwithstanding any other provision of this section, if a more specific court  
919 rule or order, state statute, federal statute, or federal regulation prohibits or requires sharing  
920 information, that rule, order, statute, or federal regulation controls.

921           ~~[(8)]~~ (10) The following records may not be shared under this section:

922           (a) records held by the Division of Oil, Gas, and Mining that pertain to any person and  
923 that are gathered under authority of Title 40, Chapter 6, Board and Division of Oil, Gas, and  
924 Mining; and

925           (b) records of publicly funded libraries as described in ~~[Subsection]~~ Section

926 63G-2-302[(1)(c)].

927        ~~[(9)]~~ (11) Records that may evidence or relate to a violation of law may be disclosed to  
928 a government prosecutor, peace officer, or auditor.

929        Section 10. Section **63G-2-301** is amended to read:

930        **63G-2-301. Records that must be disclosed.**

931        (1) As used in this section:

932        (a) "Business address" means a single address of a governmental agency designated for  
933 the public to contact an employee or officer of the governmental agency.

934        (b) "Business email address" means a single email address of a governmental agency  
935 designated for the public to contact an employee or officer of the governmental agency.

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

938        (2) The following records are public except to the extent they contain information  
939 expressly permitted to be treated confidentially under the provisions of Subsections  
940 63G-2-201(3)(b) and (6)(a):

941        (a) laws;

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

946        (i) undercover law enforcement personnel; and

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

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

953        (d) final interpretations of statutes or rules by a governmental entity unless classified as  
954 protected as provided in Subsections 63G-2-305(16), (17), and (18);

955        (e) information contained in or compiled from a transcript, minutes, or report of the  
956 open portions of a meeting of a governmental entity as provided by Title 52, Chapter 4, Open

957 and Public Meetings Act, including the records of all votes of each member of the  
958 governmental entity;

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

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

966 (i) titles or encumbrances to real property;

967 (ii) restrictions on the use of real property;

968 (iii) the capacity of persons to take or convey title to real property; or

969 (iv) tax status for real and personal property;

970 (h) records of the Department of Commerce that evidence incorporations, mergers,  
971 name changes, and uniform commercial code filings;

972 (i) data on individuals that would otherwise be private under this chapter if the  
973 individual who is the subject of the record has given the governmental entity written  
974 permission to make the records available to the public;

975 (j) documentation of the compensation that a governmental entity pays to a contractor  
976 or private provider;

977 (k) summary data; and

978 (l) voter registration records, including an individual's voting history, except for those  
979 parts of the record that are classified as private in [~~Subsection 63G-2-302(1)(i)~~] Section  
980 63G-2-302.

981 (3) The following records are normally public, but to the extent that a record is  
982 expressly exempt from disclosure, access may be restricted under Subsection 63G-2-201(3)(b),  
983 Section 63G-2-302, 63G-2-304, or 63G-2-305:

984 (a) administrative staff manuals, official instructions to staff, and formal statements of  
985 policy;

986 (b) records documenting a contractor's or private provider's compliance with the terms  
987 of a contract with a governmental entity;



- 988 (c) records documenting the services provided by a contractor or a private provider to  
989 the extent the records would be public if prepared by the governmental entity;
- 990 (d) contracts entered into by a governmental entity;
- 991 (e) any account, voucher, or contract that deals with the receipt or expenditure of funds  
992 by a governmental entity;
- 993 (f) records relating to government assistance or incentives publicly disclosed,  
994 contracted for, or given by a governmental entity, encouraging a person to expand or relocate a  
995 business in Utah, except as provided in Subsection 63G-2-305(35);
- 996 (g) chronological logs and initial contact reports;
- 997 (h) correspondence by and with a governmental entity in which the governmental entity  
998 determines or states an official opinion [~~upon~~] about the rights of the state, a political  
999 subdivision, the public, or any person;
- 1000 [~~(i) empirical data contained in drafts if:~~]  
1001 [~~(i) the empirical data is not reasonably available to the requester elsewhere in similar  
1002 form; and]~~
- 1003 [~~(ii) the governmental entity is given a reasonable opportunity to correct any errors or  
1004 make nonsubstantive changes before release;]~~
- 1005 [~~(j)~~] (i) drafts that are circulated to anyone other than:  
1006 (i) a governmental entity;  
1007 (ii) a political subdivision;  
1008 (iii) a federal agency if the governmental entity and the federal agency are jointly  
1009 responsible for implementation of a program or project that has been legislatively approved;  
1010 (iv) a government-managed corporation; or  
1011 (v) a contractor or private provider;
- 1012 [~~(k)~~] (j) drafts that have never been finalized but were directly relied upon by the  
1013 governmental entity in carrying out action or policy;
- 1014 [~~(l) original data in a computer program if the governmental entity chooses not to  
1015 disclose the program;]~~
- 1016 [~~(m)~~] (k) arrest warrants after issuance, except that, for good cause, a court may order  
1017 restricted access to an arrest [~~warrants prior to service]~~ warrant before the warrant is served;
- 1018 [~~(n)~~] (l) search warrants after execution and filing of the return, except that a court, for

- 1019 good cause, may order restricted access to search warrants [~~prior to~~] before trial;
- 1020 [~~(o)~~] (m) records that would disclose information relating to formal charges or formal
- 1021 disciplinary [~~actions~~] action against a past or present governmental entity employee if:
- 1022 (i) the disciplinary action has been completed and all time periods for administrative
- 1023 appeal have expired; and
- 1024 (ii) the charges on which the disciplinary action was based were sustained;
- 1025 [~~(p)~~] (n) records maintained by the Division of Forestry, Fire, and State Lands, the
- 1026 School and Institutional Trust Lands Administration, or the Division of Oil, Gas, and Mining
- 1027 that evidence mineral production on government lands;
- 1028 [~~(q)~~] (o) final audit reports;
- 1029 [~~(r)~~] (p) occupational and professional licenses;
- 1030 [~~(s)~~] (q) business licenses; and
- 1031 [~~(t)~~] (r) a notice of violation, a notice of agency action under Section 63G-4-201, or
- 1032 similar records used to initiate proceedings for discipline or sanctions against persons regulated
- 1033 by a governmental entity, but not including records that initiate employee discipline.
- 1034 (4) The list of public records in this section is not exhaustive and should not be used to
- 1035 limit access to records.
- 1036 Section 11. Section **63G-2-302** is amended to read:
- 1037 **63G-2-302. Private records.**
- 1038 (1) The following records are private:
- 1039 (a) records concerning an individual's eligibility for unemployment insurance benefits,
- 1040 social services, welfare benefits, or the determination of benefit levels;
- 1041 (b) records containing data on individuals describing medical history, diagnosis,
- 1042 condition, treatment, evaluation, or similar medical data;
- 1043 (c) records of publicly funded libraries that when examined alone or with other records
- 1044 identify a patron;
- 1045 (d) records received by or generated by or for:
- 1046 (i) the Independent Legislative Ethics Commission, except for:
- 1047 (A) the commission's summary data report that is required under legislative rule; and
- 1048 (B) any other document that is classified as public under legislative rule; or
- 1049 (ii) a Senate or House Ethics Committee in relation to the review of ethics complaints,

1050 unless the record is classified as public under legislative rule;

1051 (e) the Social Security number, home address, personal email address or other personal  
 1052 electronic or online address, personal telephone number, or personal financial information of  
 1053 an applicant or nominee for a position that is received by a Senate confirmation committee;

1054 ~~(e)~~ (f) records received or generated for a Senate confirmation committee concerning  
 1055 character, professional competence, or physical or mental health of an individual if:

1056 (i) ~~if prior to~~ before the meeting, the chair of the committee determines that release of  
 1057 the records~~[-(A)-reasonably]~~ could be reasonably expected to interfere with the investigation  
 1058 undertaken by the committee~~;~~ or ~~(B)~~ would create a danger of depriving a person of a right  
 1059 to a fair proceeding or impartial hearing; and

1060 (ii) after the meeting, if the meeting was closed to the public;

1061 ~~(f)~~ (g) employment records concerning a current or former employee of, or applicant  
 1062 for employment with, a governmental entity that would disclose that individual's home address,  
 1063 home telephone number, personal email address or other personal electronic or online address,  
 1064 Social Security number, insurance coverage, marital status, or payroll deductions;

1065 ~~(g)~~ (h) records or parts of records under Section 63G-2-303 that a current or former  
 1066 employee identifies as private according to the requirements of that section;

1067 ~~(h)~~ (i) that part of a record indicating a person's Social Security number or federal  
 1068 employer identification number if provided under Section 31A-23a-104, 31A-25-202,  
 1069 31A-26-202, 58-1-301, 61-1-4, or 61-2f-203;

1070 ~~(i)~~ (j) that part of a voter registration record identifying a voter's driver license or  
 1071 identification card number, Social Security number, or last four digits of the Social Security  
 1072 number;

1073 ~~(j)~~ (k) a record that~~[-(i)]~~ contains information about an individual~~[-(ii)]~~, is  
 1074 voluntarily provided by the individual~~;~~, and ~~(iii)-goes into~~ is placed in an electronic  
 1075 database that:

1076 ~~(A)~~ (i) is designated by and administered under the authority of the Chief Information  
 1077 Officer; and

1078 ~~(B)~~ (ii) acts as a repository of information about the individual that can be  
 1079 electronically retrieved and used to facilitate the individual's online interaction with a state  
 1080 agency;

1081           ~~[(k)]~~ (l) information provided to the Commissioner of Insurance under:  
1082           (i) Subsection 31A-23a-115(2)(a);  
1083           (ii) Subsection 31A-23a-302(3); or  
1084           (iii) Subsection 31A-26-210(3);  
1085           ~~[(h)]~~ (m) information obtained through a criminal background check under Title 11,  
1086 Chapter 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;  
1087           ~~[(m)]~~ (n) information provided by an offender that is:  
1088           (i) required by the registration requirements of Section 77-27-21.5; and  
1089           (ii) not required to be made available to the public under Subsection 77-27-21.5(27);  
1090 and  
1091           ~~[(n)]~~ (o) a statement and any supporting documentation filed with the attorney general  
1092 in accordance with Section 34-45-107, if the federal law or action supporting the filing  
1093 involves homeland security.  
1094           (2) The following records are private if properly classified by a governmental entity:  
1095           (a) records concerning a current or former employee of, or applicant for employment  
1096 with, a governmental entity, including performance evaluations and personal status information  
1097 such as race, religion, or disabilities, but not including records that are public under Subsection  
1098 63G-2-301(2)(b) or ~~[63G-2-301(3)(o)]~~ (3)(m), or private under Subsection (1)(b);  
1099           (b) records describing an individual's finances, except that the following are public:  
1100           (i) records described in Subsection 63G-2-301(2);  
1101           (ii) information provided to the governmental entity for the purpose of complying with  
1102 a financial assurance requirement; or  
1103           (iii) records that must be disclosed in accordance with another statute;  
1104           (c) records of independent state agencies if the disclosure of those records would  
1105 conflict with the fiduciary obligations of the agency;  
1106           (d) other records containing data on individuals the disclosure of which constitutes a  
1107 clearly unwarranted invasion of personal privacy;  
1108           (e) records provided by the United States or by a government entity outside the state  
1109 that are given with the requirement that the records be managed as private records, if the  
1110 providing entity states in writing that the record would not be subject to public disclosure if  
1111 retained by it; and

1112 (f) any portion of a record in the custody of the Division of Aging and Adult Services,  
1113 created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a  
1114 person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult.

1115 (3) (a) As used in this Subsection (3), "medical records" means medical reports,  
1116 records, statements, history, diagnosis, condition, treatment, and evaluation.

1117 (b) Medical records in the possession of the University of Utah Hospital, its clinics,  
1118 doctors, or affiliated entities are not private records or controlled records under Section  
1119 63G-2-304 when the records are sought:

1120 (i) in connection with any legal or administrative proceeding in which the patient's  
1121 physical, mental, or emotional condition is an element of any claim or defense; or

1122 (ii) after a patient's death, in any legal or administrative proceeding in which any party  
1123 relies upon the condition as an element of the claim or defense.

1124 (c) Medical records are subject to production in a legal or administrative proceeding  
1125 according to state or federal statutes or rules of procedure and evidence as if the medical  
1126 records were in the possession of a nongovernmental medical care provider.

1127 Section 12. Section **63G-2-303** is amended to read:

1128 **63G-2-303. Private information concerning certain government employees.**

1129 (1) As used in this section:

1130 (a) "At-risk government employee" means a current or former:

1131 (i) peace officer as specified in Section 53-13-102;

1132 (ii) supreme court justice;

1133 (iii) judge of an appellate, district, or juvenile court;

1134 (iv) justice court judge;

1135 (v) judge authorized by Title 39, Chapter 6, Utah Code of Military Justice;

1136 (vi) federal judge;

1137 (vii) federal magistrate judge;

1138 (viii) judge authorized by Armed Forces, Title 10, United States Code;

1139 (ix) United States Attorney;

1140 (x) Assistant United States Attorney;

1141 (xi) a prosecutor appointed pursuant to Armed Forces, Title 10, United States Code;

1142 (xii) a law enforcement official as defined in Section 53-5-711; or

1143 (xiii) a prosecutor authorized by Title 39, Chapter 6, Utah Code of Military Justice.

1144 (b) "Family member" means the spouse, child, sibling, parent, or grandparent of an  
1145 at-risk government employee who is living with the employee.

1146 (2) (a) Pursuant to [~~Subsection 63G-2-302(1)(g)~~] Section 63G-2-302, an at-risk  
1147 government employee may file a written application that:

1148 (i) gives notice of the employee's status to each agency of a government entity holding  
1149 a record or a part of a record that would disclose the employee's or the employee's family  
1150 member's home address, home telephone number, Social Security number, insurance coverage,  
1151 marital status, or payroll deductions; and

1152 (ii) requests that the government agency classify those records or parts of records  
1153 private.

1154 (b) An at-risk government employee desiring to file an application under this section  
1155 may request assistance from the government agency to identify the individual records  
1156 containing the private information specified in Subsection (2)(a)(i).

1157 (c) Each government agency shall develop a form that:

1158 (i) requires the at-risk government employee to provide evidence of qualifying  
1159 employment;

1160 (ii) requires the at-risk government employee to designate each specific record or part  
1161 of a record containing the employee's home address, home telephone number, Social Security  
1162 number, insurance coverage, marital status, or payroll deductions that the applicant desires to  
1163 be classified as private; and

1164 (iii) affirmatively requests that the government entity holding those records classify  
1165 them as private.

1166 (3) A county recorder, county treasurer, county auditor, or a county tax assessor may  
1167 fully satisfy the requirements of this section by:

1168 (a) providing a method for the assessment roll and index and the tax roll and index that  
1169 will block public access to the home address, home telephone number, situs address, and Social  
1170 Security number; and

1171 (b) providing the at-risk government employee requesting the classification with a  
1172 disclaimer informing the employee that the employee may not receive official announcements  
1173 affecting the employee's property, including notices about proposed annexations,

1174 incorporations, or zoning modifications.

1175 (4) A government agency holding records of an at-risk government employee classified  
1176 as private under this section may release the record or part of the record if:

1177 (a) the employee or former employee gives written consent;

1178 (b) a court orders release of the records; or

1179 (c) the government agency receives a certified death certificate for the employee or  
1180 former employee.

1181 (5) (a) If the government agency holding the private record receives a subpoena for the  
1182 records, the government agency shall attempt to notify the at-risk government employee or  
1183 former employee by mailing a copy of the subpoena to the employee's last-known mailing  
1184 address together with a request that the employee either:

1185 (i) authorize release of the record; or

1186 (ii) within 10 days of the date that the copy and request are mailed, deliver to the  
1187 government agency holding the private record a copy of a motion to quash filed with the court  
1188 who issued the subpoena.

1189 (b) The government agency shall comply with the subpoena if the government agency  
1190 has:

1191 (i) received permission from the at-risk government employee or former employee to  
1192 comply with the subpoena;

1193 (ii) has not received a copy of a motion to quash within 10 days of the date that the  
1194 copy of the subpoena was mailed; or

1195 (iii) receives a court order requiring release of the records.

1196 Section 13. Section **63G-2-305** is amended to read:

1197 **63G-2-305. Protected records.**

1198 The following records are protected if properly classified by a governmental entity:

1199 (1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret  
1200 has provided the governmental entity with the information specified in Section 63G-2-309;

1201 (2) commercial information or nonindividual financial information obtained from a  
1202 person if:

1203 (a) disclosure of the information could reasonably be expected to result in unfair

1204 competitive injury to the person submitting the information or would impair the ability of the

1205 governmental entity to obtain necessary information in the future;

1206 (b) the person submitting the information has a greater interest in prohibiting access  
1207 than the public in obtaining access; and

1208 (c) the person submitting the information has provided the governmental entity with  
1209 the information specified in Section 63G-2-309;

1210 (3) commercial or financial information acquired or prepared by a governmental entity  
1211 to the extent that disclosure would lead to financial speculations in currencies, securities, or  
1212 commodities that will interfere with a planned transaction by the governmental entity or cause  
1213 substantial financial injury to the governmental entity or state economy;

1214 (4) records the disclosure of which could cause commercial injury to, or confer a  
1215 competitive advantage upon, a potential or actual competitor of, a commercial project entity as  
1216 defined in Subsection 11-13-103(4);

1217 (5) test questions and answers to be used in future license, certification, registration,  
1218 employment, or academic examinations;

1219 (6) records the disclosure of which would impair governmental procurement  
1220 proceedings or give an unfair advantage to any person proposing to enter into a contract or  
1221 agreement with a governmental entity, except, subject to Subsections (1) and (2), that this  
1222 Subsection (6) does not restrict the right of a person to have access to, once the contract or  
1223 grant has been awarded, a bid, proposal, or application submitted to or by a governmental  
1224 entity in response to:

1225 (a) a request for bids;

1226 (b) a request for proposals;

1227 (c) a grant; or

1228 (d) other similar document;

1229 (7) records that would identify real property or the appraisal or estimated value of real  
1230 or personal property, including intellectual property, under consideration for public acquisition  
1231 before any rights to the property are acquired unless:

1232 (a) public interest in obtaining access to the information outweighs the governmental  
1233 entity's need to acquire the property on the best terms possible;

1234 (b) the information has already been disclosed to persons not employed by or under a  
1235 duty of confidentiality to the entity;



1236 (c) in the case of records that would identify property, potential sellers of the described  
1237 property have already learned of the governmental entity's plans to acquire the property;

1238 (d) in the case of records that would identify the appraisal or estimated value of  
1239 property, the potential sellers have already learned of the governmental entity's estimated value  
1240 of the property; or

1241 (e) the property under consideration for public acquisition is a single family residence  
1242 and the governmental entity seeking to acquire the property has initiated negotiations to acquire  
1243 the property as required under Section 78B-6-505;

1244 (8) records prepared in contemplation of sale, exchange, lease, rental, or other  
1245 compensated transaction of real or personal property including intellectual property, which, if  
1246 disclosed prior to completion of the transaction, would reveal the appraisal or estimated value  
1247 of the subject property, unless:

1248 (a) the public interest in access outweighs the interests in restricting access, including  
1249 the governmental entity's interest in maximizing the financial benefit of the transaction; or

1250 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of  
1251 the value of the subject property have already been disclosed to persons not employed by or  
1252 under a duty of confidentiality to the entity;

1253 (9) records created or maintained for civil, criminal, or administrative enforcement  
1254 purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if  
1255 release of the records:

1256 (a) reasonably could be expected to interfere with investigations undertaken for  
1257 enforcement, discipline, licensing, certification, or registration purposes;

1258 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement  
1259 proceedings;

1260 (c) would create a danger of depriving a person of a right to a fair trial or impartial  
1261 hearing;

1262 (d) reasonably could be expected to disclose the identity of a source who is not  
1263 generally known outside of government and, in the case of a record compiled in the course of  
1264 an investigation, disclose information furnished by a source not generally known outside of  
1265 government if disclosure would compromise the source; or

1266 (e) reasonably could be expected to disclose investigative or audit techniques,

1267 procedures, policies, or orders not generally known outside of government if disclosure would  
1268 interfere with enforcement or audit efforts;

1269 (10) records the disclosure of which would jeopardize the life or safety of an  
1270 individual;

1271 (11) records the disclosure of which would jeopardize the security of governmental  
1272 property, governmental programs, or governmental recordkeeping systems from damage, theft,  
1273 or other appropriation or use contrary to law or public policy;

1274 (12) records that, if disclosed, would jeopardize the security or safety of a correctional  
1275 facility, or records relating to incarceration, treatment, probation, or parole, that would interfere  
1276 with the control and supervision of an offender's incarceration, treatment, probation, or parole;

1277 (13) records that, if disclosed, would reveal recommendations made to the Board of  
1278 Pardons and Parole by an employee of or contractor for the Department of Corrections, the  
1279 Board of Pardons and Parole, or the Department of Human Services that are based on the  
1280 employee's or contractor's supervision, diagnosis, or treatment of any person within the board's  
1281 jurisdiction;

1282 (14) records and audit workpapers that identify audit, collection, and operational  
1283 procedures and methods used by the State Tax Commission, Office of the Utah State Auditor,  
1284 or Office of Legislative Auditor General, if disclosure would interfere with audits or  
1285 collections;

1286 (15) records of a governmental audit agency relating to an ongoing or planned audit  
1287 until the final audit is released;

1288 (16) records prepared by or on behalf of a governmental entity [~~solely~~] in reasonable  
1289 anticipation of litigation that are not available under the rules of discovery;

1290 (17) records disclosing an attorney's work product, including the mental impressions or  
1291 legal theories of an attorney or other representative of a governmental entity [~~concerning~~]  
1292 involving pending litigation or reasonably anticipated litigation;

1293 (18) records of communications between a governmental entity and an attorney  
1294 representing, retained, or employed by the governmental entity if the communications would be  
1295 privileged as provided in Section 78B-1-137;

1296 (19) (a) [~~(i) personal files of~~] a record related to the performance of a legislator's  
1297 official governmental duties that is prepared, received, or retained by a [state] legislator,

1298 including ~~[personal]~~ correspondence to or from a ~~[member of the Legislature; and (ii)-~~  
1299 ~~notwithstanding Subsection (19)(a)(i), correspondence that gives notice of]~~ legislator, except  
1300 that a record that provides notice of an official legislative action or policy may not be classified  
1301 as protected under this ~~[section]~~ Subsection (19)(a); and

1302 (b) (i) ~~[an internal]~~ a record disclosing a communication that is [part of the deliberative  
1303 process in connection with the preparation of legislation] related to the performance of official  
1304 governmental duties and that is between:

1305 (A) ~~[members of a legislative body]~~ one or more legislators;

1306 (B) ~~[a member of a legislative body and a member of the legislative body's staff]~~ one or  
1307 more legislators and one or more legislative staff employees; or

1308 (C) ~~[members of a legislative body's staff]~~ one or more legislative staff employees; and

1309 (ii) notwithstanding Subsection (19)(b)(i), a ~~[communication that gives notice of~~  
1310 ~~legislative action or policy]~~ record that provides notice of official legislative action or policy  
1311 may not be classified as protected under this ~~[section]~~ Subsection (19);

1312 (20) (a) records in the custody or control of the Office of Legislative Research and  
1313 General Counsel, that, if disclosed, would reveal a ~~[particular]~~ legislator's contemplated  
1314 legislation or contemplated course of action ~~[before the legislator has elected to support]~~ until  
1315 the legislation [or course of action] has been introduced, or the legislator made the legislation  
1316 or course of action public; and

1317 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the  
1318 Office of Legislative Research and General Counsel is a public document unless a legislator  
1319 asks that the records requesting the legislation be maintained as protected records until such  
1320 time as the legislator introduces the legislation or elects to make the legislation or course of  
1321 action public;

1322 (21) ~~[research]~~ legislator requests [from legislators to] for staff services from the Office  
1323 of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and  
1324 [research] findings prepared in response to these requests;

1325 (22) drafts, unless otherwise classified as public;

1326 (23) records concerning a governmental entity's strategy about:

1327 (a) collective bargaining; or

1328 (b) reasonably anticipated or pending litigation;

1329 (24) records of investigations of loss occurrences and analyses of loss occurrences that  
1330 may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the  
1331 Uninsured Employers' Fund, or similar divisions in other governmental entities;

1332 (25) records, other than personnel evaluations, that contain a personal recommendation  
1333 concerning an individual if disclosure would constitute a clearly unwarranted invasion of  
1334 personal privacy, or disclosure is not in the public interest;

1335 (26) records that reveal the location of historic, prehistoric, paleontological, or  
1336 biological resources that, if known, would jeopardize the security of those resources or of  
1337 valuable historic, scientific, educational, or cultural information;

1338 (27) records of independent state agencies if the disclosure of the records would  
1339 conflict with the fiduciary obligations of the agency;

1340 (28) records of an institution within the state system of higher education as defined in  
1341 Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions,  
1342 retention decisions, and promotions, which could be properly discussed in a meeting closed in  
1343 accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of  
1344 the final decisions about tenure, appointments, retention, promotions, or those students  
1345 admitted, may not be classified as protected under this section;

1346 (29) records [~~of~~] prepared, received, or retained by the governor's office, including  
1347 budget recommendations, legislative proposals, internal communications, working papers, and  
1348 policy statements, that if disclosed would reveal the governor's contemplated policies or  
1349 contemplated courses of action [~~before the governor has implemented or rejected those policies~~  
1350 ~~or courses of action or made them public~~];

1351 (30) records of the Office of the Legislative Fiscal Analyst relating to:

1352 (a) budget analysis[;];

1353 (b) revenue estimates[; ~~and fiscal notes of proposed legislation before issuance of the~~  
1354 ~~final recommendations in these areas~~]; and

1355 (c) data and working papers associated with a fiscal note for legislation until the  
1356 legislation has passed;

1357 (31) records provided by the United States or by a government entity outside the state  
1358 that are given to the governmental entity with a requirement that they be managed as protected  
1359 records if the providing entity certifies that the record would not be subject to public disclosure

1360 if retained by it;

1361 (32) transcripts, minutes, or reports of the closed portion of a meeting of a public body  
1362 except as provided in Section 52-4-206;

1363 (33) records that would reveal the contents of settlement negotiations but not including  
1364 final settlements or empirical data to the extent that they are not otherwise exempt from  
1365 disclosure;

1366 (34) memoranda prepared by staff and used in the decision-making process by an  
1367 administrative law judge, a member of the Board of Pardons and Parole, or a member of any  
1368 other body charged by law with performing a quasi-judicial function;

1369 (35) records that would reveal negotiations regarding assistance or incentives offered  
1370 by or requested from a governmental entity for the purpose of encouraging a person to expand  
1371 or locate a business in Utah, but only if disclosure would result in actual economic harm to the  
1372 person or place the governmental entity at a competitive disadvantage, but this section may not  
1373 be used to restrict access to a record evidencing a final contract;

1374 (36) materials to which access must be limited for purposes of securing or maintaining  
1375 the governmental entity's proprietary protection of intellectual property rights including patents,  
1376 copyrights, and trade secrets;

1377 (37) the name of a donor or a prospective donor to a governmental entity, including an  
1378 institution within the state system of higher education as defined in Section 53B-1-102, and  
1379 other information concerning the donation that could reasonably be expected to reveal the  
1380 identity of the donor, provided that:

1381 (a) the donor requests anonymity in writing;

1382 (b) any terms, conditions, restrictions, or privileges relating to the donation may not be  
1383 classified protected by the governmental entity under this Subsection (37); and

1384 (c) except for an institution within the state system of higher education defined in  
1385 Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged  
1386 in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority  
1387 over the donor, a member of the donor's immediate family, or any entity owned or controlled  
1388 by the donor or the donor's immediate family;

1389 (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and  
1390 73-18-13;

1391 (39) a notification of workers' compensation insurance coverage described in Section  
1392 34A-2-205;

1393 (40) (a) the following records of an institution within the state system of higher  
1394 education defined in Section 53B-1-102, which have been developed, discovered, disclosed to,  
1395 or received by or on behalf of faculty, staff, employees, or students of the institution:

1396 (i) unpublished lecture notes;

1397 (ii) unpublished notes, data, and information[~~-(A)~~] relating to research[~~;~~ and ~~(B)~~ of ~~(D)~~  
1398 ~~the~~] conducted by:

1399 (A) an institution within the state system of higher education defined in Section  
1400 53B-1-102; or

1401 [~~(H)~~] (B) a sponsor of sponsored research;

1402 (iii) unpublished manuscripts;

1403 (iv) creative works in process;

1404 (v) scholarly correspondence; and

1405 (vi) confidential information contained in research proposals;

1406 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public  
1407 information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

1408 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;

1409 (41) (a) records in the custody or control of the Office of Legislative Auditor General  
1410 that would reveal the name of a particular legislator who requests a legislative audit [~~prior to~~  
1411 before the date that audit is completed and made public; and

1412 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the  
1413 Office of the Legislative Auditor General is a public document unless the legislator asks that  
1414 the records in the custody or control of the Office of Legislative Auditor General that would  
1415 reveal the name of a particular legislator who requests a legislative audit be maintained as  
1416 protected records until the audit is completed and made public;

1417 (42) records that provide detail as to the location of an explosive, including a map or  
1418 other document that indicates the location of:

1419 (a) a production facility; or

1420 (b) a magazine;

1421 (43) information:

- 1422 (a) contained in the statewide database of the Division of Aging and Adult Services  
1423 created by Section 62A-3-311.1; or
- 1424 (b) received or maintained in relation to the Identity Theft Reporting Information  
1425 System (IRIS) established under Section 67-5-22;
- 1426 (44) information contained in the Management Information System and Licensing  
1427 Information System described in Title 62A, Chapter 4a, Child and Family Services;
- 1428 (45) information regarding National Guard operations or activities in support of the  
1429 National Guard's federal mission;
- 1430 (46) records provided by any pawn or secondhand business to a law enforcement  
1431 agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and  
1432 Secondhand Merchandise Transaction Information Act;
- 1433 (47) information regarding food security, risk, and vulnerability assessments performed  
1434 by the Department of Agriculture and Food;
- 1435 (48) except to the extent that the record is exempt from this chapter [~~pursuant to~~] under  
1436 Section 63G-2-106, records related to an emergency plan or program prepared or maintained by  
1437 the Division of Homeland Security the disclosure of which would jeopardize:
- 1438 (a) the safety of the general public; or
- 1439 (b) the security of[~~(i)~~] governmental property[~~(ii)~~], governmental programs[~~(i)~~], or  
1440 [(iii)] the property of a private person who provides information to the Division of Homeland  
1441 Security [~~information~~];
- 1442 (49) records of the Department of Agriculture and Food relating to the National  
1443 Animal Identification System or any other program that provides for the identification, tracing,  
1444 or control of livestock diseases, including any program established under Title 4, Chapter 24,  
1445 Utah Livestock Brand and Anti-theft Act or Title 4, Chapter 31, Livestock Inspection and  
1446 Quarantine;
- 1447 (50) as provided in Section 26-39-501:
- 1448 (a) information or records held by the Department of Health related to a complaint  
1449 regarding a child care program or residential child care which the department is unable to  
1450 substantiate; and
- 1451 (b) information or records related to a complaint received by the Department of Health  
1452 from an anonymous complainant regarding a child care program or residential child care;

1453 (51) unless otherwise classified as public under Section 63G-2-301 and except as  
1454 provided under Section 41-1a-116, an individual's home address, home telephone number,  
1455 personal email address or other personal electronic or online address, or personal mobile phone  
1456 number, if:

1457 (a) the individual is required to provide the information in order to comply with a law,  
1458 ordinance, rule, or order of a government entity; and

1459 (b) the subject of the record has a reasonable expectation that this information will be  
1460 kept confidential due to:

1461 (i) the nature of the law, ordinance, rule, or order; and

1462 (ii) the individual complying with the law, ordinance, rule, or order;

1463 (52) the name, home address, work [~~addresses, and~~] address, telephone [~~numbers~~]

1463a ~~H~~→ number ←~~H~~ , and

1464 email address or other personal electronic or online address of an individual that is engaged in,  
1465 or that provides goods or services for, medical or scientific research that is:

1466 (a) conducted within the state system of higher education, as defined in Section  
1467 53B-1-102; and

1468 (b) conducted using animals;

1469 (53) an initial proposal under Title 63M, Chapter 1, Part 26, Government Procurement  
1470 Private Proposal Program, to the extent not made public by rules made under that chapter;

1471 (54) information collected and a report prepared by the Judicial Performance  
1472 Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter  
1473 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public,  
1474 the information or report;

1475 (55) (a) records of the Utah Educational Savings Plan created under Section  
1476 53B-8a-103 if the disclosure of the records would conflict with its fiduciary obligations;

1477 (b) proposals submitted to the Utah Educational Savings Plan; and

1478 (c) contracts entered into by the Utah Educational Savings Plan and the related  
1479 payments;

1480 (56) records contained in the Management Information System created in Section  
1481 62A-4a-1003;

1482 (57) records provided or received by the Public Lands Policy Coordinating Office in  
1483 furtherance of any contract or other agreement made in accordance with Section 63J-4-603;



1484 (58) information requested by and provided to the Utah State 911 Committee under  
1485 Section 53-10-602;

1486 (59) recorded Children's Justice Center investigative interviews, both video and audio,  
1487 the release of which are governed by Section 77-37-4; and

1488 (60) in accordance with Section 73-10-33:

1489 (a) a management plan for a water conveyance facility in the possession of the Division  
1490 of Water Resources or the Board of Water Resources; or

1491 (b) an outline of an emergency response plan in possession of the state or a county or  
1492 municipality.

1493 Section 14. Section **63G-2-401** is amended to read:

1494 **63G-2-401. Appeal to head of governmental entity.**

1495 (1) (a) Any person aggrieved by a governmental entity's access determination under  
1496 this chapter, including a person not a party to the governmental entity's proceeding, may appeal  
1497 the determination within 30 days to the chief administrative officer of the governmental entity  
1498 by filing a notice of appeal.

1499 (b) If a governmental entity claims extraordinary circumstances and specifies the date  
1500 when the records will be available under Subsection 63G-2-204(3), and, if the requester  
1501 believes the extraordinary circumstances do not exist or that the time specified is unreasonable,  
1502 the requester may appeal the governmental entity's claim of extraordinary circumstances or date  
1503 for compliance within 30 days after notification of a claim of extraordinary circumstances by  
1504 the governmental entity, despite the lack of a "determination" or its equivalent under  
1505 Subsection 63G-2-204[~~(7)~~](8).

1506 (2) The notice of appeal shall contain the following information:

1507 (a) the petitioner's name, mailing address, and daytime telephone number; and

1508 (b) the relief sought.

1509 (3) The petitioner may file a short statement of facts, reasons, and legal authority in  
1510 support of the appeal.

1511 (4) (a) If the appeal involves a record that is the subject of a business confidentiality  
1512 claim under Section 63G-2-309, the chief administrative officer shall:

1513 (i) send notice of the requester's appeal to the business confidentiality claimant within  
1514 three business days after receiving notice, except that if notice under this section must be given

1515 to more than 35 persons, it shall be given as soon as reasonably possible; and

1516 (ii) send notice of the business confidentiality claim and the schedule for the chief  
1517 administrative officer's determination to the requester within three business days after receiving  
1518 notice of the requester's appeal.

1519 (b) The claimant shall have seven business days after notice is sent by the  
1520 administrative officer to submit further support for the claim of business confidentiality.

1521 (5) (a) The chief administrative officer shall make a determination on the appeal within  
1522 ~~[the following period of time]:~~

1523 (i) ~~[within]~~ five business days after the chief administrative officer's receipt of the  
1524 notice of appeal; or

1525 (ii) ~~[within]~~ 12 business days after the governmental entity sends the requester's notice  
1526 of appeal to a person who submitted a claim of business confidentiality.

1527 (b) If the chief administrative officer fails to make a determination within the time  
1528 specified in Subsection (5)(a), the failure shall be considered the equivalent of an order denying  
1529 the appeal.

1530 (c) The provisions of this section notwithstanding, the parties participating in the  
1531 proceeding may, by written agreement, extend the time periods specified in this section.

1532 (6) The chief administrative officer may, upon consideration and weighing of the  
1533 various interests and public policies pertinent to the classification and disclosure or  
1534 nondisclosure, order the disclosure of information properly classified as private under  
1535 Subsection 63G-2-302(2) or protected under Section 63G-2-305 ~~[if]~~ only if the person or party  
1536 seeking disclosure of the record has established that, by a preponderance of the evidence, the  
1537 ~~[interests]~~ public interest favoring access ~~[outweigh the interests]~~ outweighs the interest  
1538 favoring restriction of access.

1539 (7) (a) The governmental entity shall send written notice of the determination of the  
1540 chief administrative officer to all participants.

1541 (b) If the chief administrative officer affirms the denial in whole or in part, the denial  
1542 shall include a statement that the requester has the right to appeal the denial to either the  
1543 records committee or district court, the time limits for filing an appeal, and the name and  
1544 business address of the executive secretary of the records committee.

1545 (8) (a) A person aggrieved by a governmental entity's classification or designation

1546 determination under this chapter, but who is not requesting access to the records, may appeal  
1547 that determination using the procedures provided in this section.

1548 (b) If a nonrequester is the only appellant, the procedures provided in this section shall  
1549 apply, except that the determination on the appeal shall be made within 30 days after receiving  
1550 the notice of appeal.

1551 (9) The [~~duties of the~~] chief administrative officer may delegate the officer's duties  
1552 established under this section [~~may be delegated~~].

1553 Section 15. Section **63G-2-403** is amended to read:

1554 **63G-2-403. Appeals to the records committee.**

1555 (1) [~~A~~] Except as exempted under Part 7, Applicability to Political Subdivisions, the  
1556 Judiciary, and the Legislature, a petitioner, including an aggrieved person who did not  
1557 participate in the appeal to the governmental entity's chief administrative officer, may appeal to  
1558 the records committee by filing a notice of appeal with the executive secretary no later than:

1559 (a) 30 days after the chief administrative officer of the governmental entity has granted  
1560 or denied the record request in whole or in part, including a denial under Subsection  
1561 63G-2-204[~~(7)~~](8);

1562 (b) 45 days after the original request for a record if:

1563 (i) the circumstances described in Subsection 63G-2-401(1)(b) occur; and

1564 (ii) the chief administrative officer failed to make a determination under Section  
1565 63G-2-401.

1566 (2) The notice of appeal shall contain the following information:

1567 (a) the petitioner's name, mailing address, and daytime telephone number;

1568 (b) a copy of any denial of the record request; and

1569 (c) the relief sought.

1570 (3) The petitioner may file a short statement of facts, reasons, and legal authority in  
1571 support of the appeal.

1572 (4) (a) Except as provided in Subsection (4)(b), no later than five business days after  
1573 receiving a notice of appeal, the executive secretary of the records committee shall:

1574 (i) schedule a hearing for the records committee to discuss the appeal at the next  
1575 regularly scheduled committee meeting falling at least 14 days after the date the notice of  
1576 appeal is filed but no longer than 52 calendar days after the date the notice of appeal was filed,

1577 except that the records committee may schedule an expedited hearing upon application of the  
1578 petitioner and good cause shown;

1579 (ii) send a copy of the notice of hearing to the petitioner; and

1580 (iii) send a copy of the notice of appeal, supporting statement, and a notice of hearing  
1581 to:

1582 (A) each member of the records committee;

1583 (B) the records officer and the chief administrative officer of the governmental entity  
1584 from which the appeal originated;

1585 (C) any person who made a business confidentiality claim under Section 63G-2-309 for  
1586 a record that is the subject of the appeal; and

1587 (D) all persons who participated in the proceedings before the governmental entity's  
1588 chief administrative officer.

1589 (b) (i) The executive secretary of the records committee may decline to schedule a  
1590 hearing if the record series that is the subject of the appeal has been found by the committee in  
1591 a previous hearing involving the same government entity to be appropriately classified as  
1592 private, controlled, or protected.

1593 (ii) ~~[(A)]~~ If the executive secretary of the records committee declines to schedule a  
1594 hearing, the executive secretary of the records committee shall send a notice to the petitioner  
1595 indicating that the request for hearing has been denied and the reason for the denial.

1596 ~~[(B) The committee shall make rules to implement this section as provided by Title  
1597 63G, Chapter 3, Utah Administrative Rulemaking Act.]~~

1598 (5) (a) A written statement of facts, reasons, and legal authority in support of the  
1599 governmental entity's position must be submitted to the executive secretary of the records  
1600 committee not later than five business days before the hearing.

1601 (b) The governmental entity shall send a copy of the written statement to the petitioner  
1602 by first class mail, postage prepaid.

1603 (c) The executive secretary shall forward a copy of the written statement to each  
1604 member of the records committee.

1605 (6) (a) No later than 10 business days after the notice of appeal is sent by the executive  
1606 secretary, a person whose legal interests may be substantially affected by the proceeding may  
1607 file a request for intervention before the records committee.

1608 (b) Any written statement of facts, reasons, and legal authority in support of the  
1609 intervener's position shall be filed with the request for intervention.

1610 (c) The person seeking intervention shall provide copies of the statement described in  
1611 Subsection (6)(b) to all parties to the proceedings before the records committee.

1612 (7) The records committee shall hold a hearing within the period of time described in  
1613 Subsection (4).

1614 (8) (a) At the hearing, the records committee shall allow the parties to testify, present  
1615 evidence, and comment on the issues.

1616 (b) The records committee may allow other interested persons to comment on the  
1617 issues.

1618 (9) (a) ~~[The]~~ Subject to Subsection (9)(b), the records committee may review the  
1619 disputed records. ~~[However, if]~~

1620 (b) If the records committee is weighing the various interests under Subsection (11),  
1621 the committee must review the disputed records~~[. The review shall be]~~ in camera.

1622 ~~[(b)]~~ (c) Members of the records committee may not disclose any information or record  
1623 reviewed by the committee in camera unless the disclosure is otherwise authorized by this  
1624 chapter.

1625 (10) (a) Discovery is prohibited, but the records committee may issue subpoenas or  
1626 other orders to compel production of necessary evidence.

1627 (b) When the subject of a records committee subpoena disobeys or fails to comply with  
1628 the subpoena, the records committee may file a motion for an order to compel obedience to the  
1629 subpoena with the district court.

1630 (c) The records committee's review shall be de novo.

1631 (11) (a) No later than five business days after the hearing, the records committee shall  
1632 issue a signed order either granting the petition in whole or in part or upholding the  
1633 determination of the governmental entity in whole or in part.

1634 (b) The records committee may, upon consideration and weighing of the various  
1635 interests and public policies pertinent to the classification and disclosure or nondisclosure,  
1636 order the disclosure of information properly classified as private, controlled, or protected ~~[if]~~  
1637 only if the person or party seeking disclosure of the record has established that, by a  
1638 preponderance of the evidence, the public interest favoring access outweighs the interest

1639 favoring restriction of access.

1640 (c) In making a determination under Subsection (11)(b), the records committee shall  
1641 consider and, where appropriate, limit the requester's use and further disclosure of the record in  
1642 order to protect:

1643 (i) privacy interests in the case of a private or controlled record;

1644 (ii) business confidentiality interests in the case of a record protected under Subsection  
1645 63G-2-305(1), (2), (40)(a)(ii), or (40)(a)(vi); and

1646 (iii) privacy interests or the public interest in the case of other protected records.

1647 (12) The order of the records committee shall include:

1648 (a) a statement of reasons for the decision, including citations to this chapter, court rule  
1649 or order, another state statute, federal statute, or federal regulation that governs disclosure of  
1650 the record, provided that the citations do not disclose private, controlled, or protected  
1651 information;

1652 (b) a description of the record or portions of the record to which access was ordered or  
1653 denied, provided that the description does not disclose private, controlled, or protected  
1654 information or information exempt from disclosure under Subsection 63G-2-201(3)(b);

1655 (c) a statement that any party to the proceeding before the records committee may  
1656 appeal the records committee's decision to district court; and

1657 (d) a brief summary of the appeals process, the time limits for filing an appeal, and a  
1658 notice that in order to protect its rights on appeal, the party may wish to seek advice from an  
1659 attorney.

1660 (13) (a) If the records committee fails to issue a decision within 57 calendar days of the  
1661 filing of the notice of appeal, that failure shall be considered the equivalent of an order denying  
1662 the appeal.

1663 (b) The petitioner shall notify the records committee in writing if the petitioner  
1664 considers the appeal denied.

1665 (14) (a) Unless a notice of intent to appeal is filed under Subsection (14)(b), each party  
1666 to the proceeding shall comply with the order of the records committee.

1667 (b) If a party disagrees with the order of the records committee, that party may file a  
1668 notice of intent to appeal the order of the records committee.

1669 (c) If the records committee orders the governmental entity to produce a record and no

1670 appeal is filed, or if, as a result of the appeal, the governmental entity is required to produce a  
 1671 record, the governmental entity shall:

1672 (i) produce the record; and

1673 (ii) file a notice of compliance with the records committee.

1674 (d) (i) If the governmental entity that is ordered to produce a record fails to file a notice  
 1675 of compliance or a notice of intent to appeal, the records committee may do either or both of  
 1676 the following:

1677 (A) impose a civil penalty of up to \$500 for each day of continuing noncompliance; or

1678 (B) send written notice of the governmental entity's noncompliance to~~[-(F)]~~ the  
 1679 governor, for executive branch entities; ~~[(H)]~~ the Legislative Management Committee for  
 1680 legislative branch entities; ~~[and (H)]~~, or the Judicial Council, for judicial branch ~~H~~→[agencies]←~~H~~  
 1681 entities.

1682 (ii) In imposing a civil penalty, the records committee shall consider the gravity and  
 1683 circumstances of the violation, including whether the failure to comply was due to neglect or  
 1684 was willful or intentional.

1685 (15) The records committee shall make rules to implement this section as provided by  
 1686 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1687 Section 16. Section **63G-2-404** is amended to read:

1688 **63G-2-404. Judicial review.**

1689 (1) (a) Any party to a proceeding before the records committee may petition for judicial  
 1690 review by the district court of the records committee's order.

1691 (b) The petition shall be filed no later than 30 days after the date of the records  
 1692 committee's order.

1693 (c) The records committee is a necessary party to the petition for judicial review.

1694 (d) The executive secretary of the records committee shall be served with notice of the  
 1695 petition in accordance with the Utah Rules of Civil Procedure.

1696 (2) (a) A requester may petition for judicial review by the district court of a  
 1697 governmental entity's determination as specified in Subsection 63G-2-402(1)(b).

1698 (b) The requester shall file a petition no later than:

1699 (i) 30 days after the governmental entity has responded to the records request by either  
 1700 providing the requested records or denying the request in whole or in part;

1701 (ii) 35 days after the original request if the governmental entity failed to respond to the  
1702 request; or

1703 (iii) 45 days after the original request for records if:

1704 (A) the circumstances described in Subsection 63G-2-401(1)(b) occur; and

1705 (B) the chief administrative officer failed to make a determination under Section  
1706 63G-2-401.

1707 (3) The petition for judicial review shall be a complaint governed by the Utah Rules of  
1708 Civil Procedure and shall contain:

1709 (a) the petitioner's name and mailing address;

1710 (b) a copy of the records committee order from which the appeal is taken, if the  
1711 petitioner brought a prior appeal to the records committee;

1712 (c) the name and mailing address of the governmental entity that issued the initial  
1713 determination with a copy of that determination;

1714 (d) a request for relief specifying the type and extent of relief requested; and

1715 (e) a statement of the reasons why the petitioner is entitled to relief.

1716 (4) If the appeal is based on the denial of access to a protected record, the court shall  
1717 allow the claimant of business confidentiality to provide to the court the reasons for the claim  
1718 of business confidentiality.

1719 (5) All additional pleadings and proceedings in the district court are governed by the  
1720 Utah Rules of Civil Procedure.

1721 (6) (a) The district court may review the disputed records. [~~The review shall be~~]

1722 (b) If the district court chooses to review the records, the court shall review the records  
1723 in camera.

1724 (7) The court shall:

1725 (a) make its decision de novo, but allow introduction of evidence presented to the  
1726 records committee;

1727 (b) determine all questions of fact and law without a jury; and

1728 (c) decide the issue at the earliest practical opportunity.

1729 (8) (a) The court may, upon consideration and weighing of the various interests and  
1730 public policies pertinent to the classification and disclosure or nondisclosure, order the  
1731 disclosure of information properly classified as private, controlled, or protected [if] only if the



1732 person or party seeking disclosure of the record has established that, by a preponderance of the  
 1733 evidence, the public interest favoring access outweighs the interest favoring restriction of  
 1734 access.

1735 (b) The court shall consider and, where appropriate, limit the requester's use and  
 1736 further disclosure of the record in order to protect privacy interests in the case of private or  
 1737 controlled records, business confidentiality interests in the case of records protected under  
 1738 Subsections 63G-2-305(1) and (2), and privacy interests or the public interest in the case of  
 1739 other protected records.

1740 Section 17. Section **63G-2-703** is amended to read:

1741 **63G-2-703. Applicability to the Legislature and legislative staff offices.**

1742 (1) ~~[The] This chapter applies to the Legislature [and its staff offices shall designate~~  
 1743 ~~and classify records in accordance with Sections 63G-2-301 through 63G-2-305 as public,~~  
 1744 ~~private, controlled, or protected.] as follows:~~

1745 (a) The Legislature is subject to:

1746 (i) Part 1, General Provisions, except the Legislative Management Committee may  
 1747 define terms as is necessary to establish a policy described in Subsection (2);

1748 (ii) Part 2, Access to Records, except Sections 63G-2-203 and 63G-2-204;

1749 (iii) Part 3, Classification, except Subsection 63G-2-307(1);

1750 (iv) this section; and

1751 (v) Part 8, Remedies.

1752 ~~[(2)-(a)] (b) The Legislature [and its staff offices are not subject to Section 63G-2-203~~  
 1753 ~~or to] is exempt from:~~

1754 (i) Part 4, Appeals[-], but shall establish a policy to provide for an appeal process;

1755 (ii) Part 5, State Records Committee[- or], but shall establish a policy to provide for an  
 1756 appellate body to hear an appeal from a denial of access to a record or a dispute related to a fee  
 1757 and cost assessment;

1758 (iii) Part 6, Collection of Information and Accuracy of Records[-], but shall establish a  
 1759 policy relating to the retention and disposition of records;

1760 ~~[(b) The Legislature is subject to only the following sections in Part 9, Archives and~~  
 1761 ~~Records Service: Sections 63A-12-102, 63A-12-106, and 63G-2-310.]~~

1762 (iv) Part 7, Applicability to Political Subdivisions, the Judiciary, and the Legislature.

1763 except for this section; and

1764 (v) Part 9, Public Associations, except to the extent that the part may apply to  
 1765 legislators or legislative staff employees acting in a private capacity.

1766 ~~[(3)]~~ (2) The Legislature, through the Legislative Management Committee~~[-(a)]~~, shall  
 1767 establish policies ~~[to handle requests for classification, designation,]~~ relating to:

1768 (a) receiving, processing, and responding to a record request, including time periods  
 1769 and procedures for the record request process;

1770 (b) classifying or designating a record;

1771 (c) fees[;] and costs;

1772 (d) access~~[-, denials,]~~ to a record;

1773 (e) denial of access to a record;

1774 (f) segregation~~[-;]~~ of a record;

1775 (g) appeals~~[-;]~~, including time periods and procedures for the appeals process;

1776 (h) ownership, management, and retention~~[-;]~~ of a record; and

1777 (i) amendment of ~~[records; and]~~ a record.

1778 ~~[(b) may establish an appellate board to hear appeals from denials of access.]~~

1779 ~~[(4) Policies shall include reasonable times for responding to access requests consistent~~  
 1780 ~~with the provisions of Part 2, Access to Records, fees, and reasonable time limits for appeals.]~~

1781 ~~[(5)]~~ (3) Upon request, the state archivist shall:

1782 (a) assist with and advise concerning the establishment of a records management  
 1783 program in the Legislature; and

1784 (b) as required by the Legislature, provide program services similar to those available  
 1785 to the executive branch of government, as provided in this chapter and Title 63A, Chapter 12,  
 1786 ~~[Part 1, Archives and Records Service]~~ Public Records Management Act.

1787 (4) The Legislature is not subject to Title 63A, Chapter 12, Public Records  
 1788 Management Act, except for compliance with Sections 63A-12-102 and 63A-12-106.

1789 Section 18. Section **63G-2-803** is amended to read:

1790 **63G-2-803. No individual liability for certain decisions of a governmental entity.**

1791 (1) Neither the governmental entity, nor any officer or employee of the governmental  
 1792 entity, is liable for damages resulting from the release of a record where the person or

1793 ~~H~~→ [government] governmental ~~←H~~ entity requesting the record presented evidence of authority to  
 1793a obtain the record,

1794 even if it is subsequently determined that the requester had no authority.

1795 (2) Neither the governmental entity, nor any officer or employee of the governmental  
1796 entity, is liable for damages arising from the negligent disclosure of records classified as  
1797 private under [~~Subsection 63G-2-302(1)(f)~~] Section 63G-2-302 unless:

1798 (a) the disclosure was of employment records maintained by the governmental entity;  
1799 or

1800 (b) the current or former government employee had previously filed the notice required  
1801 by Section 63G-2-303 and[~~(i)~~] the government entity did not take reasonable steps to preclude  
1802 access or distribution of the record[~~;~~~~or(ii)~~] or the release of the record was otherwise willfully  
1803 or grossly negligent.

1804 (3) A mailing from a government agency to an individual who has filed an application  
1805 under Section 63G-2-303 is not a wrongful disclosure under this chapter or under Title 63A,  
1806 Chapter 12, [~~Archives and Records Service~~] Public Records Management Act.

1807 Section 19. **Repealer.**

1808 This bill repeals:

1809 Section **63G-2-102, Legislative intent.**

1810 Section 20. **Effective date.**

1811 **Ŝ→** [~~If approved by two-thirds of all the members elected to each house, this bill takes effect~~  
1812 ~~upon approval by the governor, or the day following the constitutional time limit of Utah~~  
1813 ~~Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,~~  
1814 ~~the date of veto override.] **This bill takes effect on July 1, 2011.** ←**Ŝ**~~

Legislative Review Note  
as of 3-1-11 3:05 PM

Office of Legislative Research and General Counsel

# FISCAL NOTE

H.B. 477

SHORT TITLE: **Government Records Amendments**

SPONSOR: **Dougall, J.**

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.