

**Representative Kim F. Coleman** proposes the following substitute bill:

**GOVERNMENTAL NONPROFIT ENTITY COMPLIANCE**

**AMENDMENTS**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kim F. Coleman**

Senate Sponsor: Curtis S. Bramble

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**LONG TITLE**

**General Description:**

This bill enacts provisions relating to governmental nonprofit corporations.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ adds a sunset date for a portion of a definition;
- ▶ imposes requirements on the board of a governmental nonprofit corporation;
- ▶ requires a governmental nonprofit corporation to comply with certain meeting

requirements;

▶ subjects a governmental nonprofit corporation to:

- certain fiscal procedures;
- the Open and Public Meetings Act; and
- the Government Records Access and Management Act; and

▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**



26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **11-13-501**, as enacted by Laws of Utah 2015, Chapter 265

30 **51-2a-102**, as last amended by Laws of Utah 2015, Chapters 138 and 407

31 **51-2a-403**, as enacted by Laws of Utah 2004, Chapter 206

32 **52-4-103**, as last amended by Laws of Utah 2016, Chapter 77

33 **63G-2-103**, as last amended by Laws of Utah 2015, Chapter 265

34 **63I-2-211**, as enacted by Laws of Utah 2015, Chapter 250

35 ENACTS:

36 **11-13a-101**, Utah Code Annotated 1953

37 **11-13a-102**, Utah Code Annotated 1953

38 **11-13a-103**, Utah Code Annotated 1953

39 **11-13a-104**, Utah Code Annotated 1953



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

42 Section 1. Section **11-13-501** is amended to read:

43 **11-13-501. Definitions.**

44 As used in this part:

45 (1) "Appropriation" means an allocation of money by the governing board in a budget  
46 for a specific purpose.

47 (2) "Budget" means a plan of financial operations for a fiscal year that embodies  
48 estimates of proposed expenditures for given purposes and the proposed means of financing  
49 them, and may refer to the budget of a particular fund for which a budget is required by law or  
50 may refer collectively to the budgets for all required funds.

51 (3) "Budget officer" means the person appointed by an interlocal entity governing  
52 board to prepare the budget for the interlocal entity.

53 (4) "Budget year" means the fiscal year for which a budget is prepared.

54 (5) "Calendar year entity" means an interlocal entity whose fiscal year begins January 1  
55 and ends December 31 of each calendar year as described in Section **11-13-503**.

56 (6) "Current year" means the fiscal year in which a budget is prepared and adopted, and

57 which is the fiscal year immediately preceding the budget year.

58 (7) "Deficit" means the occurrence when expenditures exceed revenues.

59 (8) "Enterprise fund" has the meaning provided in generally accepted accounting  
60 principles.

61 (9) "Estimated revenue" means the amount of revenue estimated to be received from all  
62 sources during the budget year in each fund for which a budget is being prepared.

63 (10) "Fiscal year" means the annual period for accounting for fiscal operations in an  
64 interlocal entity.

65 (11) "Fiscal year entity" means an interlocal entity whose fiscal year begins July 1 of  
66 each year and ends on June 30 of the following year as described in Section [11-13-503](#).

67 (12) "Fund" has the meaning provided in generally accepted accounting principles.

68 (13) "Fund balance" has the meaning provided in generally accepted accounting  
69 principles.

70 (14) "General fund" has the meaning provided in generally accepted accounting  
71 principles.

72 (15) "Generally accepted accounting principles" means the accounting principles and  
73 standards promulgated from time to time by authoritative bodies in the United States.

74 (16) "Governmental fund" has the meaning provided in generally accepted accounting  
75 principles.

76 (17) "Interfund loan" means a transfer of assets from one fund to another, subject to  
77 future repayment.

78 (18) "Interlocal entity" includes a governmental nonprofit corporation, as that term is  
79 defined in Section [11-13a-102](#).

80 [~~18~~] (19) "Interlocal entity general fund" means the general fund of an interlocal  
81 entity.

82 [~~19~~] (20) "Internal service funds" has the meaning provided in generally accepted  
83 accounting principles.

84 [~~20~~] (21) "Last completed fiscal year" means the fiscal year immediately preceding  
85 the current fiscal year.

86 [~~21~~] (22) "Proprietary fund" means enterprise funds and the internal service funds of  
87 an interlocal entity.

88           ~~[(22)]~~ (23) "Public funds" means any money or payment collected or received by an  
 89 interlocal entity, including money or payment for services or goods provided by the interlocal  
 90 entity.

91           ~~[(23)]~~ (24) "Retained earnings" has the meaning provided in generally accepted  
 92 accounting principles.

93           ~~[(24)]~~ (25) "Special fund" means an interlocal entity fund other than the interlocal  
 94 entity general fund.

95           Section 2. Section 11-13a-101 is enacted to read:

96           **CHAPTER 13. GOVERNMENTAL NONPROFIT CORPORATIONS ACT**  
 97           **11-13a-101. Title.**

98           This chapter is known as the "Governmental Nonprofit Corporations Act."

99           Section 3. Section 11-13a-102 is enacted to read:

100           **11-13a-102. Definitions.**

101           As used in this chapter:

102           (1) "Controlling interest" means that one or more governmental entities collectively  
 103 represent a majority of the board's voting power as outlined in the nonprofit corporation's  
 104 governing documents.

105           (2) (a) "Governing board" means the body that governs a governmental nonprofit  
 106 corporation.

107           (b) "Governing board" includes a board of directors.

108           (3) "Governmental entity" means the state, a county, a municipality, a local district, a  
 109 special service district, a school district, a state institution of higher education, or any other  
 110 political subdivision or administrative unit of the state.

111           (4) (a) "Governmental nonprofit corporation" means:

112           (i) a nonprofit corporation that is wholly owned or wholly controlled by one or more  
 113 governmental entities ~~→~~ , **unless the nonprofit corporation receives no operating funding or**  
 113a **other financial support from any governmental entity ←** ; or

114           (ii) a nonprofit corporation in which one or more governmental entities exercise a  
 115 controlling interest and:

116           (A) that exercises taxing authority;

117           (B) that imposes a mandatory fee for association or participation with the nonprofit  
 118 corporation where that association or participation is mandated by law; or

119 (C) that receives a majority of the nonprofit corporation's operating funding from one  
120 or more governmental entities under the nonprofit corporation's governing documents, except  
121 where voluntary membership fees, dues, or assessments compose the operating funding.

122 (b) "Governmental nonprofit corporation" does not include a water company, as that  
123 term is defined in Section 16-4-102, unless the water company is wholly owned by one or more  
124 governmental entities.

125 (5) "Municipality" means a city, town, or metro township.

126 Section 4. Section 11-13a-103 is enacted to read:

127 **11-13a-103. Governance -- Powers of governing body.**

128 (1) A governing board shall manage and direct the business and affairs of a  
129 governmental nonprofit corporation.

130 (2) Each member of a governing board has and owes a fiduciary duty to the  
131 governmental nonprofit corporation.

132 (3) A governing board:

133 (a) shall elect a chair from the members of the board; and

134 (b) subject to Subsection (4), may elect other officers as the board considers  
135 appropriate.

136 (4) (a) One person may not hold, at the same time, the offices of chair and treasurer,  
137 chair and clerk, or treasurer and clerk.

138 (b) An officer serves at the pleasure of the governing board.

139 (c) The governing board may designate a set term for each office.

140 Section 5. Section 11-13a-104 is enacted to read:

141 **11-13a-104. Quorum of the governing board -- Meetings of the governing board.**

142 (1) (a) A majority of the governing board constitutes a quorum for the transaction of  
143 governing board business.

144 (b) Action by a majority of a quorum constitutes action of the governing board.

145 (2) The governing board shall hold regular and special meetings as the governing board  
146 determines at a location that the governing board determines.

147 (3) (a) The governing board shall ensure that each meeting of the governing board  
148 complies with Title 52, Chapter 4, Open and Public Meetings Act.

149 (b) Subject to Title 52, Chapter 4, Open and Public Meetings Act, a governing board

150 shall:

151 (i) adopt rules of order and procedure to govern a public meeting of the governing

152 board;

153 (ii) conduct a public meeting in accordance with the governing board's rules of order

154 and procedure; and

155 (iii) make the governing board's rules of order and procedure available to the public:

156 (A) at each meeting of the governing board; and

157 (B) on the governmental nonprofit corporation's public website, if available.

158 (4) The governing board shall comply with:

159 (a) Title 11, Chapter 13, Part 5, Fiscal Procedures for Interlocal Entities; and

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

161 Section 6. Section **51-2a-102** is amended to read:

162 **51-2a-102. Definitions.**

163 As used in this chapter:

164 (1) "Accounting reports" means an audit, a review, a compilation, or a fiscal report.

165 (2) "Audit" means an examination that:

166 (a) is performed in accordance with generally accepted government auditing standards,

167 or for a nonprofit [~~corporations described in Subsection (6)(f)] corporation or a governmental~~

168 nonprofit corporation, in accordance with generally accepted auditing standards; and

169 (b) conforms to the uniform classification of accounts established or approved by the

170 state auditor or any other classification of accounts established by any federal government

171 agency.

172 (3) "Audit report" means:

173 (a) the financial statements presented in conformity with generally accepted accounting

174 principles;

175 (b) the auditor's opinion on the financial statements;

176 (c) a statement by the auditor expressing positive assurance of compliance with state

177 fiscal laws identified by the state auditor;

178 (d) a copy of the auditor's letter to management that identifies any material weakness in

179 internal controls discovered by the auditor and other financial issues related to the expenditure

180 of funds received from federal, state, or local governments to be considered by management;

181 and

182 (e) management's response to the specific recommendations.

183 (4) "Compilation" means information presented in the form of financial statements  
184 presented in conformity with generally accepted accounting principles that are the  
185 representation of management without the accountant undertaking to express any assurances on  
186 the statements.

187 (5) "Fiscal report" means providing information detailing revenues and expenditures of  
188 all funds in a format prescribed by the state auditor.

189 (6) "Governing board" means:

190 (a) the governing board of each political subdivision;

191 (b) the governing board of each interlocal organization having the power to tax or to  
192 expend public funds;

193 (c) the governing board of any local mental health authority established under the  
194 authority of Title 62A, Chapter 15, Substance Abuse and Mental Health Act;

195 (d) the governing board of any substance abuse authority established under the  
196 authority of Title 62A, Chapter 15, Substance Abuse and Mental Health Act;

197 (e) the governing board of any area agency established under the authority of Title  
198 62A, Chapter 3, Aging and Adult Services;

199 (f) the ~~[governing]~~ board of directors of any nonprofit corporation that receives an  
200 amount of money requiring an accounting report under Section [51-2a-201.5](#);

201 (g) the governing board, as that term is defined in Section [11-13a-102](#), of a  
202 governmental nonprofit corporation;

203 ~~[(g)]~~ (h) the governing board of any other entity established by a local governmental  
204 unit that receives tax exempt status for bonding or taxing purposes; and

205 ~~[(h)]~~ (i) in municipalities organized under an optional form of municipal government,  
206 the municipal legislative body.

207 (7) "Governmental nonprofit corporation" means the same as that term is defined in  
208 Section [11-13a-102](#).

209 (8) "Nonprofit corporation" does not include a governmental nonprofit corporation.

210 ~~[(7)]~~ (9) "Review" means performing inquiry and analytical procedures that provide the  
211 accountant with a reasonable basis for expressing limited assurance that there are no material

212 modifications that should be made to the financial statements for them to be in conformity with  
213 generally accepted accounting principles.

214 Section 7. Section **51-2a-403** is amended to read:

215 **51-2a-403. General Fund reimbursed for accounting report of nonappropriated**  
216 **activities -- Amount of reimbursement.**

217 (1) The General Fund shall be reimbursed by the entity for which an audit, review, or  
218 compilation are in whole or in part performed, whenever the state auditor or legislative auditor  
219 general is required by law or constitutional provision to perform that audit, review, or  
220 compilation or cause that audit, review, or compilation to be made for any office, department,  
221 division, board, agency, commission, council, authority, institution, hospital, school, college,  
222 university, or other instrumentality of the state or any of its political subdivisions for  
223 nonappropriated activities, including associated students' accounts, auxiliary enterprise funds,  
224 nonprofit corporations, governmental nonprofit corporations, contracts with the federal  
225 government, federal grants-in-aid, and federal assistance programs.

226 (2) (a) The reimbursement amount shall be a pro rata share of that auditor's total cost,  
227 based upon a time-spent factor.

228 (b) An audit includes an audit of state-appropriated funds.

229 (i) If state-appropriated funds are not involved in the accounting report, the  
230 reimbursement may not be less than the average hourly cost of the operations of that auditor's  
231 office nor more than the average rate attainable from certified public accounting firms  
232 performing similar services for this state.

233 (ii) Reimbursement charges may be negotiated with that auditor's office within these  
234 limitations.

235 Section 8. Section **52-4-103** is amended to read:

236 **52-4-103. Definitions.**

237 As used in this chapter:

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

239 (a) an electronic meeting originates; or

240 (b) the participants are connected.

241 (2) "Capitol hill complex" means the grounds and buildings within the area bounded by  
242 300 North Street, Columbus Street, 500 North Street, and East Capitol Boulevard in Salt Lake



243 City.

244 (3) "Convening" means the calling together of a public body by a person authorized to  
245 do so for the express purpose of discussing or acting upon a subject over which that public  
246 body has jurisdiction or advisory power.

247 (4) "Electronic meeting" means a public meeting convened or conducted by means of a  
248 conference using electronic communications.

249 (5) "Electronic message" means a communication transmitted electronically, including:

250 (a) electronic mail;

251 (b) instant messaging;

252 (c) electronic chat;

253 (d) text messaging as defined in Section [76-4-401](#); or

254 (e) any other method that conveys a message or facilitates communication

255 electronically.

256 (6) (a) "Meeting" means the convening of a public body or a specified body, with a  
257 quorum present, including a workshop or an executive session, whether in person or by means  
258 of electronic communications, for the purpose of discussing, receiving comments from the  
259 public about, or acting upon a matter over which the public body or specific body has  
260 jurisdiction or advisory power.

261 (b) "Meeting" does not mean:

262 (i) a chance gathering or social gathering; or

263 (ii) a convening of the State Tax Commission to consider a confidential tax matter in  
264 accordance with Section [59-1-405](#).

265 (c) "Meeting" does not mean the convening of a public body that has both legislative  
266 and executive responsibilities if:

267 (i) no public funds are appropriated for expenditure during the time the public body is  
268 convened; and

269 (ii) the public body is convened solely for the discussion or implementation of  
270 administrative or operational matters:

271 (A) for which no formal action by the public body is required; or

272 (B) that would not come before the public body for discussion or action.

273 (7) "Monitor" means to hear or observe, live, by audio or video equipment, all of the

274 public statements of each member of the public body who is participating in a meeting.

275 (8) "Participate" means the ability to communicate with all of the members of a public  
276 body, either verbally or electronically, so that each member of the public body can hear or  
277 observe the communication.

278 (9) (a) "Public body" means any administrative, advisory, executive, or legislative body  
279 of the state or its political subdivisions that:

- 280 (i) is created by the Utah Constitution, statute, rule, ordinance, or resolution;
- 281 (ii) consists of two or more persons;
- 282 (iii) expends, disburses, or is supported in whole or in part by tax revenue; and
- 283 (iv) is vested with the authority to make decisions regarding the public's business.

284 (b) "Public body" includes[-];

285 (i) as defined in Section [11-13-103](#), an interlocal entity or joint or cooperative  
286 undertaking[-]; and

287 (ii) as defined in Section [11-13a-102](#), a governmental nonprofit corporation.

288 (c) "Public body" does not include a:

- 289 (i) political party, political group, or political caucus;
- 290 (ii) conference committee, rules committee, or sifting committee of the Legislature; or
- 291 (iii) school community council or charter trust land council as defined in Section  
292 [53A-1a-108.1](#).

293 (10) "Public statement" means a statement made in the ordinary course of business of  
294 the public body with the intent that all other members of the public body receive it.

295 (11) (a) "Quorum" means a simple majority of the membership of a public body, unless  
296 otherwise defined by applicable law.

297 (b) "Quorum" does not include a meeting of two elected officials by themselves when  
298 no action, either formal or informal, is taken on a subject over which these elected officials  
299 have advisory power.

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

302 (13) "Specified body":

303 (a) means an administrative, advisory, executive, or legislative body that:

- 304 (i) is not a public body;

- 305 (ii) consists of three or more members; and
- 306 (iii) includes at least one member who is:
- 307 (A) a legislator; and
- 308 (B) officially appointed to the body by the president of the Senate, speaker of the
- 309 House of Representatives, or governor; and
- 310 (b) does not include a body listed in Subsection (9)(c)(ii).
- 311 (14) "Transmit" means to send, convey, or communicate an electronic message by
- 312 electronic means.

313 Section 9. Section **63G-2-103** is amended to read:

314 **63G-2-103. Definitions.**

315 As used in this chapter:

- 316 (1) "Audit" means:
- 317 (a) a systematic examination of financial, management, program, and related records
- 318 for the purpose of determining the fair presentation of financial statements, adequacy of
- 319 internal controls, or compliance with laws and regulations; or
- 320 (b) a systematic examination of program procedures and operations for the purpose of
- 321 determining their effectiveness, economy, efficiency, and compliance with statutes and
- 322 regulations.
- 323 (2) "Chronological logs" mean the regular and customary summary records of law
- 324 enforcement agencies and other public safety agencies that show:
- 325 (a) the time and general nature of police, fire, and paramedic calls made to the agency;
- 326 and
- 327 (b) any arrests or jail bookings made by the agency.
- 328 (3) "Classification," "classify," and their derivative forms mean determining whether a
- 329 record series, record, or information within a record is public, private, controlled, protected, or
- 330 exempt from disclosure under Subsection [63G-2-201\(3\)\(b\)](#).
- 331 (4) (a) "Computer program" means:
- 332 (i) a series of instructions or statements that permit the functioning of a computer
- 333 system in a manner designed to provide storage, retrieval, and manipulation of data from the
- 334 computer system; and
- 335 (ii) any associated documentation and source material that explain how to operate the

336 computer program.

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

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

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

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

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

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

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

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

349 (6) "Controlled record" means a record containing data on individuals that is controlled  
350 as provided by Section [63G-2-304](#).

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

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

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

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

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

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

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

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

367 (B) causing death or serious bodily injury.

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

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

370 (i) executive department agencies of the state, the offices of the governor, lieutenant  
371 governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole,  
372 the Board of Examiners, the National Guard, the Career Service Review Office, the State  
373 Board of Education, the State Board of Regents, and the State Archives;

374 (ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal  
375 Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative  
376 committees, except any political party, group, caucus, or rules or sifting committee of the  
377 Legislature;

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

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

381 (v) any political subdivision of the state, but, if a political subdivision has adopted an  
382 ordinance or a policy relating to information practices pursuant to Section [63G-2-701](#), this  
383 chapter shall apply to the political subdivision to the extent specified in Section [63G-2-701](#) or  
384 as specified in any other section of this chapter that specifically refers to political subdivisions.

385 (b) "Governmental entity" also means:

386 (i) every office, agency, board, bureau, committee, department, advisory board, or  
387 commission of an entity listed in Subsection (11)(a) that is funded or established by the  
388 government to carry out the public's business; [~~and~~]

389 (ii) as defined in Section [11-13-103](#), an interlocal entity or joint or cooperative  
390 undertaking[-]; and

391 (iii) as defined in Section [11-13a-102](#), a governmental nonprofit corporation.

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

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

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

399 (14) (a) "Initial contact report" means an initial written or recorded report, however  
400 titled, prepared by peace officers engaged in public patrol or response duties describing official  
401 actions initially taken in response to either a public complaint about or the discovery of an  
402 apparent violation of law, which report may describe:

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

404 (ii) names of victims;

405 (iii) the nature or general scope of the agency's initial actions taken in response to the  
406 incident;

407 (iv) the general nature of any injuries or estimate of damages sustained in the incident;

408 (v) the name, address, and other identifying information about any person arrested or  
409 charged in connection with the incident; or

410 (vi) the identity of the public safety personnel, except undercover personnel, or  
411 prosecuting attorney involved in responding to the initial incident.

412 (b) Initial contact reports do not include follow-up or investigative reports prepared  
413 after the initial contact report. However, if the information specified in Subsection (14)(a)  
414 appears in follow-up or investigative reports, it may only be treated confidentially if it is  
415 private, controlled, protected, or exempt from disclosure under Subsection [63G-2-201\(3\)\(b\)](#).

416 (15) "Legislative body" means the Legislature.

417 (16) "Notice of compliance" means a statement confirming that a governmental entity  
418 has complied with a records committee order.

419 (17) "Person" means:

420 (a) an individual;

421 (b) a nonprofit or profit corporation;

422 (c) a partnership;

423 (d) a sole proprietorship;

424 (e) other type of business organization; or

425 (f) any combination acting in concert with one another.

426 (18) "Private provider" means any person who contracts with a governmental entity to  
427 provide services directly to the public.

428 (19) "Private record" means a record containing data on individuals that is private as

429 provided by Section 63G-2-302.

430 (20) "Protected record" means a record that is classified protected as provided by  
431 Section 63G-2-305.

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

434 (22) (a) "Record" means a book, letter, document, paper, map, plan, photograph, film,  
435 card, tape, recording, electronic data, or other documentary material regardless of physical form  
436 or characteristics:

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

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

441 (b) "Record" does not mean:

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

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

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

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

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

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

452 (v) proprietary software;

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

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

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

459 (ix) a daily calendar or other personal note prepared by the originator for the

460 originator's personal use or for the personal use of an individual for whom the originator is  
461 working;

462 (x) a computer program that is developed or purchased by or for any governmental  
463 entity for its own use;

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

465 (A) a member of the judiciary;

466 (B) an administrative law judge;

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

468 (D) a member of any other body charged by law with performing a quasi-judicial  
469 function;

470 (xii) a telephone number or similar code used to access a mobile communication  
471 device that is used by an employee or officer of a governmental entity, provided that the  
472 employee or officer of the governmental entity has designated at least one business telephone  
473 number that is a public record as provided in Section 63G-2-301;

474 (xiii) information provided by the Public Employees' Benefit and Insurance Program,  
475 created in Section 49-20-103, to a county to enable the county to calculate the amount to be  
476 paid to a health care provider under Subsection 17-50-319(2)(e)(ii);

477 (xiv) information that an owner of unimproved property provides to a local entity as  
478 provided in Section 11-42-205; or

479 (xv) a video or audio recording of an interview, or a transcript of the video or audio  
480 recording, that is conducted at a Children's Justice Center established under Section 67-5b-102.

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

483 (24) "Records committee" means the State Records Committee created in Section  
484 63G-2-501.

485 (25) "Records officer" means the individual appointed by the chief administrative  
486 officer of each governmental entity, or the political subdivision to work with state archives in  
487 the care, maintenance, scheduling, designation, classification, disposal, and preservation of  
488 records.

489 (26) "Schedule," "scheduling," and their derivative forms mean the process of  
490 specifying the length of time each record series should be retained by a governmental entity for



491 administrative, legal, fiscal, or historical purposes and when each record series should be  
 492 transferred to the state archives or destroyed.

493 (27) "Sponsored research" means research, training, and other sponsored activities as  
 494 defined by the federal Executive Office of the President, Office of Management and Budget:

495 (a) conducted:

496 (i) by an institution within the state system of higher education defined in Section  
 497 [53B-1-102](#); and

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

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

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

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

503 (28) "State archives" means the Division of Archives and Records Service created in  
 504 Section [63A-12-101](#).

505 (29) "State archivist" means the director of the state archives.

506 (30) "Summary data" means statistical records and compilations that contain data  
 507 derived from private, controlled, or protected information but that do not disclose private,  
 508 controlled, or protected information.

509 Section 10. Section **63I-2-211** is amended to read:

510 **63I-2-211. Repeal dates -- Title 11.**

511 (1) (a) On July 1, 2019, Subsection [11-13a-102](#) ~~Ĥ~~→ ~~(3)~~ (4) ←Ĥ (b) is repealed.

512 (b) When repealing Subsection [11-13a-102](#) ~~Ĥ~~→ ~~(3)~~ (4) ←Ĥ (b), the Office of  
 512a Legislative Research  
 513 and General Counsel shall, in addition to the office's authority under Subsection [36-12-12\(3\)](#),  
 514 make necessary changes to subsection numbering and cross references.

515 (2) Title 11, Chapter 53, Residential Property Reimbursement, is repealed on January  
 516 1, 2020.