

1 **GOVERNMENTAL NONPROFIT ENTITY COMPLIANCE**

2 **AMENDMENTS**

3 2017 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Kim F. Coleman**

6 Senate Sponsor: Curtis S. Bramble

8 **LONG TITLE**

9 **General Description:**

10 This bill enacts provisions relating to governmental nonprofit corporations.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ defines terms;
- 14 ▶ adds a sunset date for a portion of a definition;
- 15 ▶ imposes requirements on the board of a governmental nonprofit corporation;
- 16 ▶ requires a governmental nonprofit corporation to comply with certain meeting
- 17 requirements;
- 18 ▶ subjects a governmental nonprofit corporation to:
 - 19 • certain fiscal procedures;
 - 20 • the Open and Public Meetings Act; and
 - 21 • the Government Records Access and Management Act; and
- 22 ▶ makes technical and conforming changes.

23 **Money Appropriated in this Bill:**

24 None

25 **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 other

114 financial support from any governmental entity; or
115 (ii) a nonprofit corporation in which one or more governmental entities exercise a
116 controlling interest and:
117 (A) that exercises taxing authority;
118 (B) that imposes a mandatory fee for association or participation with the nonprofit
119 corporation where that association or participation is mandated by law; or
120 (C) that receives a majority of the nonprofit corporation's operating funding from one
121 or more governmental entities under the nonprofit corporation's governing documents, except
122 where voluntary membership fees, dues, or assessments compose the operating funding.

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

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

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

128 **11-13a-103. Governance -- Powers of governing body.**

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

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

133 (3) A governing board:

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

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

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

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

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

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

142 **11-13a-104. Quorum of the governing board -- Meetings of the governing board.**

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

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

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

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

150 (b) Subject to Title 52, Chapter 4, Open and Public Meetings Act, a governing board
151 shall:

152 (i) adopt rules of order and procedure to govern a public meeting of the governing
153 board;

154 (ii) conduct a public meeting in accordance with the governing board's rules of order
155 and procedure; and

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

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

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

159 (4) The governing board shall comply with:

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

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

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

163 **51-2a-102. Definitions.**

164 As used in this chapter:

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

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

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

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

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

170 (b) conforms to the uniform classification of accounts established or approved by the
171 state auditor or any other classification of accounts established by any federal government
172 agency.

173 (3) "Audit report" means:

174 (a) the financial statements presented in conformity with generally accepted accounting
175 principles;

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

177 (c) a statement by the auditor expressing positive assurance of compliance with state
178 fiscal laws identified by the state auditor;

179 (d) a copy of the auditor's letter to management that identifies any material weakness in
180 internal controls discovered by the auditor and other financial issues related to the expenditure
181 of funds received from federal, state, or local governments to be considered by management;
182 and

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

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

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

190 (6) "Governing board" means:

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

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

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

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

198 (e) the governing board of any area agency established under the authority of Title
199 62A, Chapter 3, Aging and Adult Services;

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

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

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

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

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

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

211 ~~[(7)]~~ (9) "Review" means performing inquiry and analytical procedures that provide the
212 accountant with a reasonable basis for expressing limited assurance that there are no material
213 modifications that should be made to the financial statements for them to be in conformity with
214 generally accepted accounting principles.

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

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

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

226 government, federal grants-in-aid, and federal assistance programs.

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

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

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

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

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

237 **52-4-103. Definitions.**

238 As used in this chapter:

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

240 (a) an electronic meeting originates; or

241 (b) the participants are connected.

242 (2) "Capitol hill complex" means the grounds and buildings within the area bounded by
243 300 North Street, Columbus Street, 500 North Street, and East Capitol Boulevard in Salt Lake
244 City.

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

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

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

251 (a) electronic mail;

252 (b) instant messaging;

253 (c) electronic chat;

- 254 (d) text messaging as defined in Section 76-4-401; or
255 (e) any other method that conveys a message or facilitates communication
256 electronically.
- 257 (6) (a) "Meeting" means the convening of a public body or a specified body, with a
258 quorum present, including a workshop or an executive session, whether in person or by means
259 of electronic communications, for the purpose of discussing, receiving comments from the
260 public about, or acting upon a matter over which the public body or specific body has
261 jurisdiction or advisory power.
- 262 (b) "Meeting" does not mean:
- 263 (i) a chance gathering or social gathering; or
264 (ii) a convening of the State Tax Commission to consider a confidential tax matter in
265 accordance with Section 59-1-405.
- 266 (c) "Meeting" does not mean the convening of a public body that has both legislative
267 and executive responsibilities if:
- 268 (i) no public funds are appropriated for expenditure during the time the public body is
269 convened; and
270 (ii) the public body is convened solely for the discussion or implementation of
271 administrative or operational matters:
- 272 (A) for which no formal action by the public body is required; or
273 (B) that would not come before the public body for discussion or action.
- 274 (7) "Monitor" means to hear or observe, live, by audio or video equipment, all of the
275 public statements of each member of the public body who is participating in a meeting.
- 276 (8) "Participate" means the ability to communicate with all of the members of a public
277 body, either verbally or electronically, so that each member of the public body can hear or
278 observe the communication.
- 279 (9) (a) "Public body" means any administrative, advisory, executive, or legislative body
280 of the state or its political subdivisions that:
- 281 (i) is created by the Utah Constitution, statute, rule, ordinance, or resolution;

- 282 (ii) consists of two or more persons;
- 283 (iii) expends, disburses, or is supported in whole or in part by tax revenue; and
- 284 (iv) is vested with the authority to make decisions regarding the public's business.

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

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

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

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

- 290 (i) political party, political group, or political caucus;
- 291 (ii) conference committee, rules committee, or sifting committee of the Legislature; or
- 292 (iii) school community council or charter trust land council as defined in Section
293 [53A-1a-108.1](#).

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

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

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

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

303 (13) "Specified body":

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

- 305 (i) is not a public body;
- 306 (ii) consists of three or more members; and
- 307 (iii) includes at least one member who is:

308 (A) a legislator; and

309 (B) officially appointed to the body by the president of the Senate, speaker of the

310 House of Representatives, or governor; and

311 (b) does not include a body listed in Subsection (9)(c)(ii).

312 (14) "Transmit" means to send, convey, or communicate an electronic message by
313 electronic means.

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

315 **63G-2-103. Definitions.**

316 As used in this chapter:

317 (1) "Audit" means:

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

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

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

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

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

329 (3) "Classification," "classify," and their derivative forms mean determining whether a
330 record series, record, or information within a record is public, private, controlled, protected, or
331 exempt from disclosure under Subsection [63G-2-201\(3\)\(b\)](#).

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

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

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

- 338 (b) "Computer program" does not mean:
- 339 (i) the original data, including numbers, text, voice, graphics, and images;
- 340 (ii) analysis, compilation, and other manipulated forms of the original data produced by
- 341 use of the program; or
- 342 (iii) the mathematical or statistical formulas, excluding the underlying mathematical
- 343 algorithms contained in the program, that would be used if the manipulated forms of the
- 344 original data were to be produced manually.
- 345 (5) (a) "Contractor" means:
- 346 (i) any person who contracts with a governmental entity to provide goods or services
- 347 directly to a governmental entity; or
- 348 (ii) any private, nonprofit organization that receives funds from a governmental entity.
- 349 (b) "Contractor" does not mean a private provider.
- 350 (6) "Controlled record" means a record containing data on individuals that is controlled
- 351 as provided by Section [63G-2-304](#).
- 352 (7) "Designation," "designate," and their derivative forms mean indicating, based on a
- 353 governmental entity's familiarity with a record series or based on a governmental entity's
- 354 review of a reasonable sample of a record series, the primary classification that a majority of
- 355 records in a record series would be given if classified and the classification that other records
- 356 typically present in the record series would be given if classified.
- 357 (8) "Elected official" means each person elected to a state office, county office,
- 358 municipal office, school board or school district office, local district office, or special service
- 359 district office, but does not include judges.
- 360 (9) "Explosive" means a chemical compound, device, or mixture:
- 361 (a) commonly used or intended for the purpose of producing an explosion; and
- 362 (b) that contains oxidizing or combustive units or other ingredients in proportions,
- 363 quantities, or packing so that:
- 364 (i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the
- 365 compound or mixture may cause a sudden generation of highly heated gases; and

- 366 (ii) the resultant gaseous pressures are capable of:
- 367 (A) producing destructive effects on contiguous objects; or
- 368 (B) causing death or serious bodily injury.
- 369 (10) "Government audit agency" means any governmental entity that conducts an audit.
- 370 (11) (a) "Governmental entity" means:
- 371 (i) executive department agencies of the state, the offices of the governor, lieutenant
- 372 governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole,
- 373 the Board of Examiners, the National Guard, the Career Service Review Office, the State
- 374 Board of Education, the State Board of Regents, and the State Archives;
- 375 (ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal
- 376 Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative
- 377 committees, except any political party, group, caucus, or rules or sifting committee of the
- 378 Legislature;
- 379 (iii) courts, the Judicial Council, the Office of the Court Administrator, and similar
- 380 administrative units in the judicial branch;
- 381 (iv) any state-funded institution of higher education or public education; or
- 382 (v) any political subdivision of the state, but, if a political subdivision has adopted an
- 383 ordinance or a policy relating to information practices pursuant to Section [63G-2-701](#), this
- 384 chapter shall apply to the political subdivision to the extent specified in Section [63G-2-701](#) or
- 385 as specified in any other section of this chapter that specifically refers to political subdivisions.
- 386 (b) "Governmental entity" also means:
- 387 (i) every office, agency, board, bureau, committee, department, advisory board, or
- 388 commission of an entity listed in Subsection (11)(a) that is funded or established by the
- 389 government to carry out the public's business; [~~and~~]
- 390 (ii) as defined in Section [11-13-103](#), an interlocal entity or joint or cooperative
- 391 undertaking[~~;~~]; and
- 392 (iii) as defined in Section [11-13a-102](#), a governmental nonprofit corporation.
- 393 (c) "Governmental entity" does not include the Utah Educational Savings Plan created

394 in Section [53B-8a-103](#).

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

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

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

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

405 (ii) names of victims;

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

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

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

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

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

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

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

420 (17) "Person" means:

421 (a) an individual;

422 (b) a nonprofit or profit corporation;

423 (c) a partnership;

424 (d) a sole proprietorship;

425 (e) other type of business organization; or

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

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

429 (19) "Private record" means a record containing data on individuals that is private as
430 provided by Section [63G-2-302](#).

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

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

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

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

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

442 (b) "Record" does not mean:

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

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

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

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

- 450 (iii) material that is legally owned by an individual in the individual's private capacity;
- 451 (iv) material to which access is limited by the laws of copyright or patent unless the
452 copyright or patent is owned by a governmental entity or political subdivision;
- 453 (v) proprietary software;
- 454 (vi) junk mail or a commercial publication received by a governmental entity or an
455 official or employee of a governmental entity;
- 456 (vii) a book that is cataloged, indexed, or inventoried and contained in the collections
457 of a library open to the public;
- 458 (viii) material that is cataloged, indexed, or inventoried and contained in the collections
459 of a library open to the public, regardless of physical form or characteristics of the material;
- 460 (ix) a daily calendar or other personal note prepared by the originator for the
461 originator's personal use or for the personal use of an individual for whom the originator is
462 working;
- 463 (x) a computer program that is developed or purchased by or for any governmental
464 entity for its own use;
- 465 (xi) a note or internal memorandum prepared as part of the deliberative process by:
466 (A) a member of the judiciary;
467 (B) an administrative law judge;
468 (C) a member of the Board of Pardons and Parole; or
469 (D) a member of any other body charged by law with performing a quasi-judicial
470 function;
- 471 (xii) a telephone number or similar code used to access a mobile communication
472 device that is used by an employee or officer of a governmental entity, provided that the
473 employee or officer of the governmental entity has designated at least one business telephone
474 number that is a public record as provided in Section [63G-2-301](#);
- 475 (xiii) information provided by the Public Employees' Benefit and Insurance Program,
476 created in Section [49-20-103](#), to a county to enable the county to calculate the amount to be
477 paid to a health care provider under Subsection [17-50-319\(2\)\(e\)\(ii\)](#);

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

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

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

484 (24) "Records committee" means the State Records Committee created in Section
485 63G-2-501.

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

490 (26) "Schedule," "scheduling," and their derivative forms mean the process of
491 specifying the length of time each record series should be retained by a governmental entity for
492 administrative, legal, fiscal, or historical purposes and when each record series should be
493 transferred to the state archives or destroyed.

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

496 (a) conducted:

497 (i) by an institution within the state system of higher education defined in Section
498 53B-1-102; and

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

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

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

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

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

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

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

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

511 **63I-2-211. Repeal dates -- Title 11.**

512 (1) (a) On July 1, 2019, Subsection 11-13a-102(4)(b) is repealed.

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

516 (2) Title 11, Chapter 53, Residential Property Reimbursement, is repealed on January
517 1, 2020.