

1                   **GOVERNMENTAL NONPROFIT CORPORATION MEETINGS**

2                                   **AMENDMENTS**

3   2019 GENERAL SESSION

4   STATE OF UTAH

5                                   **Chief Sponsor: Deidre M. Henderson**

6   House Sponsor: Susan Pulsipher

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8                   **LONG TITLE**

9                   **General Description:**

10                   This bill amends Title 52, Chapter 4, Open and Public Meetings Act.

11                   **Highlighted Provisions:**

12                   This bill:

- 13                   ▶ allows a governmental nonprofit corporation to close a meeting to discuss a trade
- 14                   secret in certain circumstances; and
- 15                   ▶ makes technical and conforming changes.

16                   **Money Appropriated in this Bill:**

17                   None

18                   **Other Special Clauses:**

19                   None

20                   **Utah Code Sections Affected:**

21                   AMENDS:

22                   **52-4-205**, as last amended by Laws of Utah 2014, Chapter 196

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

25                   Section 1. Section **52-4-205** is amended to read:

26                   **52-4-205. Purposes of closed meetings -- Certain issues prohibited in closed**  
27                   **meetings.**

28                   (1) A closed meeting described under Section **52-4-204** may only be held for:

29                   (a) except as provided in Subsection (3), discussion of the character, professional

- 30 competence, or physical or mental health of an individual;
- 31 (b) strategy sessions to discuss collective bargaining;
- 32 (c) strategy sessions to discuss pending or reasonably imminent litigation;
- 33 (d) strategy sessions to discuss the purchase, exchange, or lease of real property,
- 34 including any form of a water right or water shares, if public discussion of the transaction
- 35 would:
- 36 (i) disclose the appraisal or estimated value of the property under consideration; or
- 37 (ii) prevent the public body from completing the transaction on the best possible terms;
- 38 (e) strategy sessions to discuss the sale of real property, including any form of a water
- 39 right or water shares, if:
- 40 (i) public discussion of the transaction would:
- 41 (A) disclose the appraisal or estimated value of the property under consideration; or
- 42 (B) prevent the public body from completing the transaction on the best possible terms;
- 43 (ii) the public body previously gave public notice that the property would be offered for
- 44 sale; and
- 45 (iii) the terms of the sale are publicly disclosed before the public body approves the
- 46 sale;
- 47 (f) discussion regarding deployment of security personnel, devices, or systems;
- 48 (g) investigative proceedings regarding allegations of criminal misconduct;
- 49 (h) as relates to the Independent Legislative Ethics Commission, conducting business
- 50 relating to the receipt or review of ethics complaints;
- 51 (i) as relates to an ethics committee of the Legislature, a purpose permitted under
- 52 Subsection [52-4-204\(1\)\(a\)\(iii\)\(C\)](#);
- 53 (j) as relates to the Independent Executive Branch Ethics Commission created in
- 54 Section [63A-14-202](#), conducting business relating to an ethics complaint;
- 55 (k) as relates to a county legislative body, discussing commercial information as
- 56 defined in Section [59-1-404](#);
- 57 (l) as relates to the Utah Higher Education Assistance Authority and its appointed

58 board of directors, discussing fiduciary or commercial information as defined in Section  
59 [53B-12-102](#);

60 (m) deliberations, not including any information gathering activities, of a public body  
61 acting in the capacity of:

62 (i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code,  
63 during the process of evaluating responses to a solicitation, as defined in Section [63G-6a-103](#);

64 (ii) a protest officer, defined in Section [63G-6a-103](#), during the process of making a  
65 decision on a protest under Title 63G, Chapter 6a, Part 16, Protests; or

66 (iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement  
67 Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17,  
68 Procurement Appeals Board;

69 (n) the purpose of considering information that is designated as a trade secret, as  
70 defined in Section [13-24-2](#), if the public body's consideration of the information is necessary in  
71 order to properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement Code;

72 (o) the purpose of discussing information provided to the public body during the  
73 procurement process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of  
74 the meeting:

75 (i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be  
76 disclosed to a member of the public or to a participant in the procurement process; and

77 (ii) the public body needs to review or discuss the information in order to properly  
78 fulfill its role and responsibilities in the procurement process; [~~or~~]

79 (p) as relates to the governing board of a governmental nonprofit corporation, as that  
80 term is defined in Section [11-13a-102](#), the purpose of discussing information that is designated  
81 as a trade secret, as that term is defined in Section [13-24-2](#), if:

82 (i) public knowledge of the discussion would reasonably be expected to result in injury  
83 to the owner of the trade secret; and

84 (ii) discussion of the information is necessary for the governing board to properly  
85 discharge the board's duties and conduct the board's business; or

86           ~~[(p)]~~ (q) a purpose for which a meeting is required to be closed under Subsection (2).

87           (2) The following meetings shall be closed:

88           (a) a meeting of the Health and Human Services Interim Committee to review a fatality  
89 review report described in Subsection 62A-16-301(1)(a), and the responses to the report  
90 described in Subsections 62A-16-301(2) and (4);

91           (b) a meeting of the Child Welfare Legislative Oversight Panel to:

92           (i) review a fatality review report described in Subsection 62A-16-301(1)(a), and the  
93 responses to the report described in Subsections 62A-16-301(2) and (4); or

94           (ii) review and discuss an individual case, as described in Subsection 62A-4a-207(5);

95 and

96           (c) a meeting of a conservation district as defined in Section 17D-3-102 for the purpose  
97 of advising the Natural Resource Conservation Service of the United States Department of  
98 Agriculture on a farm improvement project if the discussed information is protected  
99 information under federal law.

100           (3) In a closed meeting, a public body may not:

101           (a) interview a person applying to fill an elected position;

102           (b) discuss filling a midterm vacancy or temporary absence governed by Title 20A,  
103 Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office;  
104 or

105           (c) discuss the character, professional competence, or physical or mental health of the  
106 person whose name was submitted for consideration to fill a midterm vacancy or temporary  
107 absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and  
108 Temporary Absence in Elected Office.