

Representative Brad R. Wilson proposes the following substitute bill:

COLORADO RIVER AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brad R. Wilson

Senate Sponsor: J. Stuart Adams

LONG TITLE

General Description:

This bill addresses Utah's management of Utah's Colorado River system interests.

Highlighted Provisions:

This bill:

- ▶ enacts the Colorado River Authority of Utah Act, including:
 - defining terms;
 - describing the scope of the chapter;
 - creating the authority;
 - providing for the organization and operation of the authority;
 - establishing the authority's powers and mission;
 - addressing creation of a management plan;
 - providing for rulemaking, reporting, and recordkeeping;
 - addressing authority meetings, including closure of meetings;
 - providing for authorized advisory councils;
 - authorizing consultations;
 - addressing application of certain state codes;
 - addressing the river commissioner and chair;
 - providing for employees, consultants, and other professionals, including an



- 26 executive director; and
- 27 • addressing financial operations including creating a restricted account;
- 28 ▶ adapts implementation of the Colorado River Authority of Utah Act to existing law;
- 29 and
- 30 ▶ makes technical changes.

31 **Money Appropriated in this Bill:**

32 None

33 **Other Special Clauses:**

34 This bill provides a special effective date.

35 This bill provides revisor instructions.

36 **Utah Code Sections Affected:**

37 AMENDS:

38 **52-4-205**, as last amended by Laws of Utah 2020, Chapters 12 and 201

39 **63G-2-305**, as last amended by Laws of Utah 2020, Chapters 112, 198, 339, 349, 382,
40 and 393

41 **63G-6a-103**, as last amended by Laws of Utah 2020, Chapters 152, 257, 365 and last
42 amended by Coordination Clause, Laws of Utah 2020, Chapter 365

43 **63G-6a-107.6**, as enacted by Laws of Utah 2020, Chapter 257

44 **63J-1-602.2**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapters 20
45 and 20

46 **73-10-3**, as last amended by Laws of Utah 1983, Chapter 320

47 **73-10-4**, as last amended by Laws of Utah 2020, Chapter 342

48 **73-10-18**, as last amended by Laws of Utah 2016, Chapter 58

49 ENACTS:

50 **63M-14-101**, Utah Code Annotated 1953

51 **63M-14-102**, Utah Code Annotated 1953

52 **63M-14-103**, Utah Code Annotated 1953

53 **63M-14-201**, Utah Code Annotated 1953

54 **63M-14-202**, Utah Code Annotated 1953

55 **63M-14-203**, Utah Code Annotated 1953

56 **63M-14-204**, Utah Code Annotated 1953

- 57 [63M-14-205](#), Utah Code Annotated 1953
- 58 [63M-14-206](#), Utah Code Annotated 1953
- 59 [63M-14-207](#), Utah Code Annotated 1953
- 60 [63M-14-208](#), Utah Code Annotated 1953
- 61 [63M-14-209](#), Utah Code Annotated 1953
- 62 [63M-14-210](#), Utah Code Annotated 1953
- 63 [63M-14-301](#), Utah Code Annotated 1953
- 64 [63M-14-302](#), Utah Code Annotated 1953
- 65 [63M-14-303](#), Utah Code Annotated 1953
- 66 [63M-14-304](#), Utah Code Annotated 1953
- 67 [63M-14-305](#), Utah Code Annotated 1953
- 68 [63M-14-306](#), Utah Code Annotated 1953
- 69 [63M-14-401](#), Utah Code Annotated 1953
- 70 [63M-14-402](#), Utah Code Annotated 1953
- 71 [63M-14-501](#), Utah Code Annotated 1953
- 72 [63M-14-502](#), Utah Code Annotated 1953

73 **Utah Code Sections Affected by Revisor Instructions:**

- 74 [63M-14-203](#), Utah Code Annotated 1953
- 75 [63M-14-301](#), Utah Code Annotated 1953



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

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

79 **52-4-205. Purposes of closed meetings -- Certain issues prohibited in closed**
80 **meetings.**

- 81 (1) A closed meeting described under Section [52-4-204](#) may only be held for:
- 82 (a) except as provided in Subsection (3), discussion of the character, professional
- 83 competence, or physical or mental health of an individual;
- 84 (b) strategy sessions to discuss collective bargaining;
- 85 (c) strategy sessions to discuss pending or reasonably imminent litigation;
- 86 (d) strategy sessions to discuss the purchase, exchange, or lease of real property,
- 87 including any form of a water right or water shares, if public discussion of the transaction

88 would:

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

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

91 (e) strategy sessions to discuss the sale of real property, including any form of a water

92 right or water shares, if:

93 (i) public discussion of the transaction would:

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

95 (B) prevent the public body from completing the transaction on the best possible terms;

96 (ii) the public body previously gave public notice that the property would be offered for

97 sale; and

98 (iii) the terms of the sale are publicly disclosed before the public body approves the

99 sale;

100 (f) discussion regarding deployment of security personnel, devices, or systems;

101 (g) investigative proceedings regarding allegations of criminal misconduct;

102 (h) as relates to the Independent Legislative Ethics Commission, conducting business

103 relating to the receipt or review of ethics complaints;

104 (i) as relates to an ethics committee of the Legislature, a purpose permitted under
105 Subsection [52-4-204\(1\)\(a\)\(iii\)\(C\)](#);

106 (j) as relates to the Independent Executive Branch Ethics Commission created in
107 Section [63A-14-202](#), conducting business relating to an ethics complaint;

108 (k) as relates to a county legislative body, discussing commercial information as
109 defined in Section [59-1-404](#);

110 (l) as relates to the Utah Higher Education Assistance Authority and its appointed
111 board of directors, discussing fiduciary or commercial information as defined in Section
112 [53B-12-102](#);

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

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

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

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

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

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

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

130 (ii) the public body needs to review or discuss the information in order to properly
131 fulfill its role and responsibilities in the procurement process;

132 (p) as relates to the governing board of a governmental nonprofit corporation, as that
133 term is defined in Section 11-13a-102, the purpose of discussing information that is designated
134 as a trade secret, as that term is defined in Section 13-24-2, if:

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

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

139 (q) a purpose for which a meeting is required to be closed under Subsection (2).

140 (2) The following meetings shall be closed:

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

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

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

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

148 (c) a meeting of the Opioid and Overdose Fatality Review Committee, created in
149 Section 26-7-13, to review and discuss an individual case, as described in Subsection

150 26-7-13(10); [~~and~~]

151 (d) a meeting of a conservation district as defined in Section 17D-3-102 for the
152 purpose of advising the Natural Resource Conservation Service of the United States
153 Department of Agriculture on a farm improvement project if the discussed information is
154 protected information under federal law; [~~and~~]

155 (e) a meeting of the Compassionate Use Board established in Section 26-61a-105 for
156 the purpose of reviewing petitions for a medical cannabis card in accordance with Section
157 26-61a-105[~~;~~]; and

158 (f) a meeting of the Colorado River Authority of Utah if:

159 (i) the purpose of the meeting is to discuss an interstate claim to the use of the water in
160 the Colorado River system; and

161 (ii) failing to close the meeting would:

162 (A) reveal the contents of a record classified as protected under Subsection
163 63G-2-305(82);

164 (B) reveal a legal strategy relating to the state's claim to the use of the water in the
165 Colorado River system;

166 (C) harm the ability of the Colorado River Authority of Utah to negotiate the best
167 terms and conditions regarding the use of water in the Colorado River system; or

168 (D) give an advantage to another state or to the federal government in negotiations
169 regarding the use of water in the Colorado River system.

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

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

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

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

179 Section 2. Section 63G-2-305 is amended to read:

180 **63G-2-305. Protected records.**

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

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

184 (2) commercial information or nonindividual financial information obtained from a
185 person if:

186 (a) disclosure of the information could reasonably be expected to result in unfair
187 competitive injury to the person submitting the information or would impair the ability of the
188 governmental entity to obtain necessary information in the future;

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

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

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

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

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

202 (6) records, the disclosure of which would impair governmental procurement
203 proceedings or give an unfair advantage to any person proposing to enter into a contract or
204 agreement with a governmental entity, except, subject to Subsections (1) and (2), that this
205 Subsection (6) does not restrict the right of a person to have access to, after the contract or
206 grant has been awarded and signed by all parties:

207 (a) a bid, proposal, application, or other information submitted to or by a governmental
208 entity in response to:

209 (i) an invitation for bids;

210 (ii) a request for proposals;

211 (iii) a request for quotes;

- 212 (iv) a grant; or
- 213 (v) other similar document; or
- 214 (b) an unsolicited proposal, as defined in Section [63G-6a-712](#);
- 215 (7) information submitted to or by a governmental entity in response to a request for
- 216 information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict
- 217 the right of a person to have access to the information, after:
 - 218 (a) a contract directly relating to the subject of the request for information has been
 - 219 awarded and signed by all parties; or
 - 220 (b) (i) a final determination is made not to enter into a contract that relates to the
 - 221 subject of the request for information; and
 - 222 (ii) at least two years have passed after the day on which the request for information is
 - 223 issued;
 - 224 (8) records that would identify real property or the appraisal or estimated value of real
 - 225 or personal property, including intellectual property, under consideration for public acquisition
 - 226 before any rights to the property are acquired unless:
 - 227 (a) public interest in obtaining access to the information is greater than or equal to the
 - 228 governmental entity's need to acquire the property on the best terms possible;
 - 229 (b) the information has already been disclosed to persons not employed by or under a
 - 230 duty of confidentiality to the entity;
 - 231 (c) in the case of records that would identify property, potential sellers of the described
 - 232 property have already learned of the governmental entity's plans to acquire the property;
 - 233 (d) in the case of records that would identify the appraisal or estimated value of
 - 234 property, the potential sellers have already learned of the governmental entity's estimated value
 - 235 of the property; or
 - 236 (e) the property under consideration for public acquisition is a single family residence
 - 237 and the governmental entity seeking to acquire the property has initiated negotiations to acquire
 - 238 the property as required under Section [78B-6-505](#);
 - 239 (9) records prepared in contemplation of sale, exchange, lease, rental, or other
 - 240 compensated transaction of real or personal property including intellectual property, which, if
 - 241 disclosed prior to completion of the transaction, would reveal the appraisal or estimated value
 - 242 of the subject property, unless:

243 (a) the public interest in access is greater than or equal to the interests in restricting
244 access, including the governmental entity's interest in maximizing the financial benefit of the
245 transaction; or

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

249 (10) records created or maintained for civil, criminal, or administrative enforcement
250 purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if
251 release of the records:

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

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

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

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

262 (e) reasonably could be expected to disclose investigative or audit techniques,
263 procedures, policies, or orders not generally known outside of government if disclosure would
264 interfere with enforcement or audit efforts;

265 (11) records the disclosure of which would jeopardize the life or safety of an
266 individual;

267 (12) records the disclosure of which would jeopardize the security of governmental
268 property, governmental programs, or governmental recordkeeping systems from damage, theft,
269 or other appropriation or use contrary to law or public policy;

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

273 (14) records that, if disclosed, would reveal recommendations made to the Board of

274 Pardons and Parole by an employee of or contractor for the Department of Corrections, the
275 Board of Pardons and Parole, or the Department of Human Services that are based on the
276 employee's or contractor's supervision, diagnosis, or treatment of any person within the board's
277 jurisdiction;

278 (15) records and audit workpapers that identify audit, collection, and operational
279 procedures and methods used by the State Tax Commission, if disclosure would interfere with
280 audits or collections;

281 (16) records of a governmental audit agency relating to an ongoing or planned audit
282 until the final audit is released;

283 (17) records that are subject to the attorney client privilege;

284 (18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer,
285 employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial,
286 quasi-judicial, or administrative proceeding;

287 (19) (a) (i) personal files of a state legislator, including personal correspondence to or
288 from a member of the Legislature; and

289 (ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of
290 legislative action or policy may not be classified as protected under this section; and

291 (b) (i) an internal communication that is part of the deliberative process in connection
292 with the preparation of legislation between:

293 (A) members of a legislative body;

294 (B) a member of a legislative body and a member of the legislative body's staff; or

295 (C) members of a legislative body's staff; and

296 (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of
297 legislative action or policy may not be classified as protected under this section;

298 (20) (a) records in the custody or control of the Office of Legislative Research and
299 General Counsel, that, if disclosed, would reveal a particular legislator's contemplated
300 legislation or contemplated course of action before the legislator has elected to support the
301 legislation or course of action, or made the legislation or course of action public; and

302 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the
303 Office of Legislative Research and General Counsel is a public document unless a legislator
304 asks that the records requesting the legislation be maintained as protected records until such

305 time as the legislator elects to make the legislation or course of action public;

306 (21) research requests from legislators to the Office of Legislative Research and
307 General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared
308 in response to these requests;

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

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

311 (a) collective bargaining; or
312 (b) imminent or pending litigation;

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

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

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

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

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

330 (29) records of the governor's office, including budget recommendations, legislative
331 proposals, and policy statements, that if disclosed would reveal the governor's contemplated
332 policies or contemplated courses of action before the governor has implemented or rejected
333 those policies or courses of action or made them public;

334 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,
335 revenue estimates, and fiscal notes of proposed legislation before issuance of the final

336 recommendations in these areas;

337 (31) records provided by the United States or by a government entity outside the state
338 that are given to the governmental entity with a requirement that they be managed as protected
339 records if the providing entity certifies that the record would not be subject to public disclosure
340 if retained by it;

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

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

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

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

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

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

361 (a) the donor requests anonymity in writing;

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

364 (c) except for an institution within the state system of higher education defined in
365 Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged
366 in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority

367 over the donor, a member of the donor's immediate family, or any entity owned or controlled
368 by the donor or the donor's immediate family;

369 (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and
370 73-18-13;

371 (39) a notification of workers' compensation insurance coverage described in Section
372 34A-2-205;

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

376 (i) unpublished lecture notes;

377 (ii) unpublished notes, data, and information:

378 (A) relating to research; and

379 (B) of:

380 (I) the institution within the state system of higher education defined in Section
381 53B-1-102; or

382 (II) a sponsor of sponsored research;

383 (iii) unpublished manuscripts;

384 (iv) creative works in process;

385 (v) scholarly correspondence; and

386 (vi) confidential information contained in research proposals;

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

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

390 (41) (a) records in the custody or control of the Office of Legislative Auditor General
391 that would reveal the name of a particular legislator who requests a legislative audit prior to the
392 date that audit is completed and made public; and

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

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

400 (a) a production facility; or

401 (b) a magazine;

402 (43) information:

403 (a) contained in the statewide database of the Division of Aging and Adult Services
404 created by Section [62A-3-311.1](#); or

405 (b) received or maintained in relation to the Identity Theft Reporting Information
406 System (IRIS) established under Section [67-5-22](#);

407 (44) information contained in the Management Information System and Licensing
408 Information System described in Title 62A, Chapter 4a, Child and Family Services;

409 (45) information regarding National Guard operations or activities in support of the
410 National Guard's federal mission;

411 (46) records provided by any pawn or secondhand business to a law enforcement
412 agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and
413 Secondhand Merchandise Transaction Information Act;

414 (47) information regarding food security, risk, and vulnerability assessments performed
415 by the Department of Agriculture and Food;

416 (48) except to the extent that the record is exempt from this chapter pursuant to Section
417 [63G-2-106](#), records related to an emergency plan or program, a copy of which is provided to or
418 prepared or maintained by the Division of Emergency Management, and the disclosure of
419 which would jeopardize:

420 (a) the safety of the general public; or

421 (b) the security of:

422 (i) governmental property;

423 (ii) governmental programs; or

424 (iii) the property of a private person who provides the Division of Emergency
425 Management information;

426 (49) records of the Department of Agriculture and Food that provides for the
427 identification, tracing, or control of livestock diseases, including any program established under
428 Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control

429 of Animal Disease;

430 (50) as provided in Section 26-39-501:

431 (a) information or records held by the Department of Health related to a complaint
432 regarding a child care program or residential child care which the department is unable to
433 substantiate; and

434 (b) information or records related to a complaint received by the Department of Health
435 from an anonymous complainant regarding a child care program or residential child care;

436 (51) unless otherwise classified as public under Section 63G-2-301 and except as
437 provided under Section 41-1a-116, an individual's home address, home telephone number, or
438 personal mobile phone number, if:

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

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

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

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

445 (52) the portion of the following documents that contains a candidate's residential or
446 mailing address, if the candidate provides to the filing officer another address or phone number
447 where the candidate may be contacted:

448 (a) a declaration of candidacy, a nomination petition, or a certificate of nomination,
449 described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408,
450 20A-9-408.5, 20A-9-502, or 20A-9-601;

451 (b) an affidavit of impecuniosity, described in Section 20A-9-201; or

452 (c) a notice of intent to gather signatures for candidacy, described in Section
453 20A-9-408;

454 (53) the name, home address, work addresses, and telephone numbers of an individual
455 that is engaged in, or that provides goods or services for, medical or scientific research that is:

456 (a) conducted within the state system of higher education, as defined in Section
457 53B-1-102; and

458 (b) conducted using animals;

459 (54) in accordance with Section 78A-12-203, any record of the Judicial Performance

460 Evaluation Commission concerning an individual commissioner's vote on whether or not to
461 recommend that the voters retain a judge including information disclosed under Subsection
462 [78A-12-203\(5\)\(e\)](#);

463 (55) information collected and a report prepared by the Judicial Performance
464 Evaluation Commission concerning a judge, unless Section [20A-7-702](#) or Title 78A, Chapter
465 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public,
466 the information or report;

467 (56) records contained in the Management Information System created in Section
468 [62A-4a-1003](#);

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

471 (58) information requested by and provided to the 911 Division under Section
472 [63H-7a-302](#);

473 (59) in accordance with Section [73-10-33](#):

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

476 (b) an outline of an emergency response plan in possession of the state or a county or
477 municipality;

478 (60) the following records in the custody or control of the Office of Inspector General
479 of Medicaid Services, created in Section [63A-13-201](#):

480 (a) records that would disclose information relating to allegations of personal
481 misconduct, gross mismanagement, or illegal activity of a person if the information or
482 allegation cannot be corroborated by the Office of Inspector General of Medicaid Services
483 through other documents or evidence, and the records relating to the allegation are not relied
484 upon by the Office of Inspector General of Medicaid Services in preparing a final investigation
485 report or final audit report;

486 (b) records and audit workpapers to the extent they would disclose the identity of a
487 person who, during the course of an investigation or audit, communicated the existence of any
488 Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or
489 regulation adopted under the laws of this state, a political subdivision of the state, or any
490 recognized entity of the United States, if the information was disclosed on the condition that

491 the identity of the person be protected;

492 (c) before the time that an investigation or audit is completed and the final
493 investigation or final audit report is released, records or drafts circulated to a person who is not
494 an employee or head of a governmental entity for the person's response or information;

495 (d) records that would disclose an outline or part of any investigation, audit survey
496 plan, or audit program; or

497 (e) requests for an investigation or audit, if disclosure would risk circumvention of an
498 investigation or audit;

499 (61) records that reveal methods used by the Office of Inspector General of Medicaid
500 Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or
501 abuse;

502 (62) information provided to the Department of Health or the Division of Occupational
503 and Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections
504 58-68-304(3) and (4);

505 (63) a record described in Section 63G-12-210;

506 (64) captured plate data that is obtained through an automatic license plate reader
507 system used by a governmental entity as authorized in Section 41-6a-2003;

508 (65) any record in the custody of the Utah Office for Victims of Crime relating to a
509 victim, including:

510 (a) a victim's application or request for benefits;

511 (b) a victim's receipt or denial of benefits; and

512 (c) any administrative notes or records made or created for the purpose of, or used to,
513 evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim
514 Reparations Fund;

515 (66) an audio or video recording created by a body-worn camera, as that term is
516 defined in Section 77-7a-103, that records sound or images inside a hospital or health care
517 facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care
518 provider, as that term is defined in Section 78B-3-403, or inside a human service program as
519 that term is defined in Section 62A-2-101, except for recordings that:

520 (a) depict the commission of an alleged crime;

521 (b) record any encounter between a law enforcement officer and a person that results in

522 death or bodily injury, or includes an instance when an officer fires a weapon;

523 (c) record any encounter that is the subject of a complaint or a legal proceeding against

524 a law enforcement officer or law enforcement agency;

525 (d) contain an officer involved critical incident as defined in Subsection

526 76-2-408(1)(f); or

527 (e) have been requested for reclassification as a public record by a subject or

528 authorized agent of a subject featured in the recording;

529 (67) a record pertaining to the search process for a president of an institution of higher

530 education described in Section 53B-2-102, except for application materials for a publicly

531 announced finalist;

532 (68) an audio recording that is:

533 (a) produced by an audio recording device that is used in conjunction with a device or

534 piece of equipment designed or intended for resuscitating an individual or for treating an

535 individual with a life-threatening condition;

536 (b) produced during an emergency event when an individual employed to provide law

537 enforcement, fire protection, paramedic, emergency medical, or other first responder service:

538 (i) is responding to an individual needing resuscitation or with a life-threatening

539 condition; and

540 (ii) uses a device or piece of equipment designed or intended for resuscitating an

541 individual or for treating an individual with a life-threatening condition; and

542 (c) intended and used for purposes of training emergency responders how to improve

543 their response to an emergency situation;

544 (69) records submitted by or prepared in relation to an applicant seeking a

545 recommendation by the Research and General Counsel Subcommittee, the Budget

546 Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an

547 employment position with the Legislature;

548 (70) work papers as defined in Section 31A-2-204;

549 (71) a record made available to Adult Protective Services or a law enforcement agency

550 under Section 61-1-206;

551 (72) a record submitted to the Insurance Department in accordance with Section

552 31A-37-201 or 31A-22-653;

- 553 (73) a record described in Section [31A-37-503](#)[~~;~~];
- 554 (74) any record created by the Division of Occupational and Professional Licensing as
555 a result of Subsection [58-37f-304](#)(5) or [58-37f-702](#)(2)(a)(ii);
- 556 (75) a record described in Section [72-16-306](#) that relates to the reporting of an injury
557 involving an amusement ride;
- 558 (76) except as provided in Subsection [63G-2-305.5](#)(1), the signature of an individual
559 on a political petition, or on a request to withdraw a signature from a political petition,
560 including a petition or request described in the following titles:
- 561 (a) Title 10, Utah Municipal Code;
- 562 (b) Title 17, Counties;
- 563 (c) Title 17B, Limited Purpose Local Government Entities - Local Districts;
- 564 (d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and
- 565 (e) Title 20A, Election Code;
- 566 (77) except as provided in Subsection [63G-2-305.5](#)(2), the signature of an individual in
567 a voter registration record;
- 568 (78) except as provided in Subsection [63G-2-305.5](#)(3), any signature, other than a
569 signature described in Subsection (76) or (77), in the custody of the lieutenant governor or a
570 local political subdivision collected or held under, or in relation to, Title 20A, Election Code;
- 571 (79) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part
572 5, Victims Guidelines for Prosecutors Act;
- 573 (80) a record submitted to the Insurance Department under Subsection
574 [31A-47-103](#)(1)(b); [~~and~~]
- 575 (81) personal information, as defined in Section [63G-26-102](#), to the extent disclosure is
576 prohibited under Section [63G-26-103](#)[~~;~~]; and
- 577 (82) a record concerning an interstate claim to the use of waters in the Colorado River
578 system in a judicial proceeding, administrative proceeding, or negotiation with a representative
579 from another state or the federal government as provided in Section [63M-14-205](#).
- 580 Section 3. Section **63G-6a-103** is amended to read:
- 581 **63G-6a-103. Definitions.**
- 582 As used in this chapter:
- 583 (1) "Approved vendor" means a person who has been approved for inclusion on an

584 approved vendor list through the approved vendor list process.

585 (2) "Approved vendor list" means a list of approved vendors established under Section
586 63G-6a-507.

587 (3) "Approved vendor list process" means the procurement process described in
588 Section 63G-6a-507.

589 (4) "Bidder" means a person who submits a bid or price quote in response to an
590 invitation for bids.

591 (5) "Bidding process" means the procurement process described in Part 6, Bidding.

592 (6) "Board" means the Utah State Procurement Policy Board, created in Section
593 63G-6a-202.

594 (7) "Building board" means the State Building Board, created in Section 63A-5b-201.

595 (8) "Change directive" means a written order signed by the procurement officer that
596 directs the contractor to suspend work or make changes, as authorized by contract, without the
597 consent of the contractor.

598 (9) "Change order" means a written alteration in specifications, delivery point, rate of
599 delivery, period of performance, price, quantity, or other provisions of a contract, upon mutual
600 agreement of the parties to the contract.

601 (10) "Chief procurement officer" means the individual appointed under Subsection
602 63G-6a-302(1).

603 (11) "Conducting procurement unit" means a procurement unit that conducts all
604 aspects of a procurement:

605 (a) except:

606 (i) reviewing a solicitation to verify that it is in proper form; and

607 (ii) causing the publication of a notice of a solicitation; and

608 (b) including:

609 (i) preparing any solicitation document;

610 (ii) appointing an evaluation committee;

611 (iii) conducting the evaluation process, except the process relating to scores calculated
612 for costs of proposals;

613 (iv) selecting and recommending the person to be awarded a contract;

614 (v) negotiating the terms and conditions of a contract, subject to the issuing

615 procurement unit's approval; and

616 (vi) contract administration.

617 (12) "Conservation district" means the same as that term is defined in Section
618 17D-3-102.

619 (13) "Construction project":

620 (a) means a project for the construction, renovation, alteration, improvement, or repair
621 of a public facility on real property, including all services, labor, supplies, and materials for the
622 project; and

623 (b) does not include services and supplies for the routine, day-to-day operation, repair,
624 or maintenance of an existing public facility.

625 (14) "Construction manager/general contractor":

626 (a) means a contractor who enters into a contract:

627 (i) for the management of a construction project; and

628 (ii) that allows the contractor to subcontract for additional labor and materials that are
629 not included in the contractor's cost proposal submitted at the time of the procurement of the
630 contractor's services; and

631 (b) does not include a contractor whose only subcontract work not included in the
632 contractor's cost proposal submitted as part of the procurement of the contractor's services is to
633 meet subcontracted portions of change orders approved within the scope of the project.

634 (15) "Construction subcontractor":

635 (a) means a person under contract with a contractor or another subcontractor to provide
636 services or labor for the design or construction of a construction project;

637 (b) includes a general contractor or specialty contractor licensed or exempt from
638 licensing under Title 58, Chapter 55, Utah Construction Trades Licensing Act; and

639 (c) does not include a supplier who provides only materials, equipment, or supplies to a
640 contractor or subcontractor for a construction project.

641 (16) "Contract" means an agreement for a procurement.

642 (17) "Contract administration" means all functions, duties, and responsibilities
643 associated with managing, overseeing, and carrying out a contract between a procurement unit
644 and a contractor, including:

645 (a) implementing the contract;

646 (b) ensuring compliance with the contract terms and conditions by the conducting
647 procurement unit and the contractor;

648 (c) executing change orders;

649 (d) processing contract amendments;

650 (e) resolving, to the extent practicable, contract disputes;

651 (f) curing contract errors and deficiencies;

652 (g) terminating a contract;

653 (h) measuring or evaluating completed work and contractor performance;

654 (i) computing payments under the contract; and

655 (j) closing out a contract.

656 (18) "Contractor" means a person who is awarded a contract with a procurement unit.

657 (19) "Cooperative procurement" means procurement conducted by, or on behalf of:

658 (a) more than one procurement unit; or

659 (b) a procurement unit and a cooperative purchasing organization.

660 (20) "Cooperative purchasing organization" means an organization, association, or
661 alliance of purchasers established to combine purchasing power in order to obtain the best
662 value for the purchasers by engaging in procurements in accordance with Section [63G-6a-2105](#).

663 (21) "Cost-plus-a-percentage-of-cost contract" means a contract under which the
664 contractor is paid a percentage of the total actual expenses or costs in addition to the
665 contractor's actual expenses or costs.

666 (22) "Cost-reimbursement contract" means a contract under which a contractor is
667 reimbursed for costs which are allowed and allocated in accordance with the contract terms and
668 the provisions of this chapter, and a fee, if any.

669 (23) "Days" means calendar days, unless expressly provided otherwise.

670 (24) "Definite quantity contract" means a fixed price contract that provides for a
671 specified amount of supplies over a specified period, with deliveries scheduled according to a
672 specified schedule.

673 (25) "Design professional" means:

674 (a) an individual licensed as an architect under Title 58, Chapter 3a, Architects
675 Licensing Act;

676 (b) an individual licensed as a professional engineer or professional land surveyor

677 under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing
678 Act; or

679 (c) an individual certified as a commercial interior designer under Title 58, Chapter 86,
680 State Certification of Commercial Interior Designers Act.

681 (26) "Design professional procurement process" means the procurement process
682 described in Part 15, Design Professional Services.

683 (27) "Design professional services" means:

684 (a) professional services within the scope of the practice of architecture as defined in
685 Section [58-3a-102](#);

686 (b) professional engineering as defined in Section [58-22-102](#);

687 (c) master planning and programming services; or

688 (d) services within the scope of the practice of commercial interior design, as defined
689 in Section [58-86-102](#).

690 (28) "Design-build" means the procurement of design professional services and
691 construction by the use of a single contract.

692 (29) "Division" means the Division of Purchasing and General Services, created in
693 Section [63A-2-101](#).

694 (30) "Educational procurement unit" means:

695 (a) a school district;

696 (b) a public school, including a local school board or a charter school;

697 (c) the Utah Schools for the Deaf and the Blind;

698 (d) the Utah Education and Telehealth Network;

699 (e) an institution of higher education of the state described in Section [53B-1-102](#); or

700 (f) the State Board of Education.

701 (31) "Established catalogue price" means the price included in a catalogue, price list,
702 schedule, or other form that:

703 (a) is regularly maintained by a manufacturer or contractor;

704 (b) is published or otherwise available for inspection by customers; and

705 (c) states prices at which sales are currently or were last made to a significant number
706 of any category of buyers or buyers constituting the general buying public for the supplies or
707 services involved.

708 (32) (a) "Executive branch procurement unit" means a department, division, office,
709 bureau, agency, or other organization within the state executive branch.

710 (b) "Executive branch procurement unit" does not include the Colorado River
711 Authority of Utah as provided in Section [63M-14-210](#).

712 (33) "Facilities division" means the Division of Facilities Construction and
713 Management, created in Section [63A-5b-301](#).

714 (34) "Fixed price contract" means a contract that provides a price, for each
715 procurement item obtained under the contract, that is not subject to adjustment except to the
716 extent that:

717 (a) the contract provides, under circumstances specified in the contract, for an
718 adjustment in price that is not based on cost to the contractor; or

719 (b) an adjustment is required by law.

720 (35) "Fixed price contract with price adjustment" means a fixed price contract that
721 provides for an upward or downward revision of price, precisely described in the contract, that:

722 (a) is based on the consumer price index or another commercially acceptable index,
723 source, or formula; and

724 (b) is not based on a percentage of the cost to the contractor.

725 (36) "Grant" means an expenditure of public funds or other assistance, or an agreement
726 to expend public funds or other assistance, for a public purpose authorized by law, without
727 acquiring a procurement item in exchange.

728 (37) "Immaterial error":

729 (a) means an irregularity or abnormality that is:

730 (i) a matter of form that does not affect substance; or

731 (ii) an inconsequential variation from a requirement of a solicitation that has no, little,
732 or a trivial effect on the procurement process and that is not prejudicial to other vendors; and

733 (b) includes:

734 (i) a missing signature, missing acknowledgment of an addendum, or missing copy of a
735 professional license, bond, or insurance certificate;

736 (ii) a typographical error;

737 (iii) an error resulting from an inaccuracy or omission in the solicitation; and

738 (iv) any other error that the procurement official reasonably considers to be immaterial.

- 739 (38) "Indefinite quantity contract" means a fixed price contract that:
- 740 (a) is for an indefinite amount of procurement items to be supplied as ordered by a
- 741 procurement unit; and
- 742 (b) (i) does not require a minimum purchase amount; or
- 743 (ii) provides a maximum purchase limit.
- 744 (39) "Independent procurement unit" means:
- 745 (a) (i) a legislative procurement unit;
- 746 (ii) a judicial branch procurement unit;
- 747 (iii) an educational procurement unit;
- 748 (iv) a local government procurement unit;
- 749 (v) a conservation district;
- 750 (vi) a local building authority;
- 751 (vii) a local district;
- 752 (viii) a public corporation;
- 753 (ix) a special service district; or
- 754 (x) the Utah Communications Authority, established in Section [63H-7a-201](#);
- 755 (b) the building board or the facilities division, but only to the extent of the
- 756 procurement authority provided under Title 63A, Chapter 5b, Administration of State
- 757 Facilities;
- 758 (c) the attorney general, but only to the extent of the procurement authority provided
- 759 under Title 67, Chapter 5, Attorney General;
- 760 (d) the Department of Transportation, but only to the extent of the procurement
- 761 authority provided under Title 72, Transportation Code; or
- 762 (e) any other executive branch department, division, office, or entity that has statutory
- 763 procurement authority outside this chapter, but only to the extent of that statutory procurement
- 764 authority.
- 765 (40) "Invitation for bids":
- 766 (a) means a document used to solicit:
- 767 (i) bids to provide a procurement item to a procurement unit; or
- 768 (ii) quotes for a price of a procurement item to be provided to a procurement unit; and
- 769 (b) includes all documents attached to or incorporated by reference in a document

770 described in Subsection (40)(a).

771 (41) "Issuing procurement unit" means a procurement unit that:

772 (a) reviews a solicitation to verify that it is in proper form;

773 (b) causes the notice of a solicitation to be published; and

774 (c) negotiates and approves the terms and conditions of a contract.

775 (42) "Judicial procurement unit" means:

776 (a) the Utah Supreme Court;

777 (b) the Utah Court of Appeals;

778 (c) the Judicial Council;

779 (d) a state judicial district; or

780 (e) an office, committee, subcommittee, or other organization within the state judicial
781 branch.

782 (43) "Labor hour contract" is a contract under which:

783 (a) the supplies and materials are not provided by, or through, the contractor; and

784 (b) the contractor is paid a fixed rate that includes the cost of labor, overhead, and
785 profit for a specified number of labor hours or days.

786 (44) "Legislative procurement unit" means:

787 (a) the Legislature;

788 (b) the Senate;

789 (c) the House of Representatives;

790 (d) a staff office of the Legislature, the Senate, or the House of Representatives; or

791 (e) a committee, subcommittee, commission, or other organization:

792 (i) within the state legislative branch; or

793 (ii) (A) that is created by statute to advise or make recommendations to the Legislature;

794 (B) the membership of which includes legislators; and

795 (C) for which the Office of Legislative Research and General Counsel provides staff
796 support.

797 (45) "Local building authority" means the same as that term is defined in Section
798 [17D-2-102](#).

799 (46) "Local district" means the same as that term is defined in Section [17B-1-102](#).

800 (47) "Local government procurement unit" means:

801 (a) a county or municipality, and each office or agency of the county or municipality,
802 unless the county or municipality adopts its own procurement code by ordinance;

803 (b) a county or municipality that has adopted this entire chapter by ordinance, and each
804 office or agency of that county or municipality; or

805 (c) a county or municipality that has adopted a portion of this chapter by ordinance, to
806 the extent that a term in the ordinance is used in the adopted portion of this chapter, and each
807 office or agency of that county or municipality.

808 (48) "Multiple award contracts" means the award of a contract for an indefinite
809 quantity of a procurement item to more than one person.

810 (49) "Multiyear contract" means a contract that extends beyond a one-year period,
811 including a contract that permits renewal of the contract, without competition, beyond the first
812 year of the contract.

813 (50) "Municipality" means a city, town, or metro township.

814 (51) "Nonadopting local government procurement unit" means:

815 (a) a county or municipality that has not adopted Part 16, Protests, Part 17,
816 Procurement Appeals Board, Part 18, Appeals to Court and Court Proceedings, and Part 19,
817 General Provisions Related to Protest or Appeal; and

818 (b) each office or agency of a county or municipality described in Subsection (51)(a).

819 (52) "Offeror" means a person who submits a proposal in response to a request for
820 proposals.

821 (53) "Preferred bidder" means a bidder that is entitled to receive a reciprocal preference
822 under the requirements of this chapter.

823 (54) "Procure" means to acquire a procurement item through a procurement.

824 (55) "Procurement" means the acquisition of a procurement item through an
825 expenditure of public funds, or an agreement to expend public funds, including an acquisition
826 through a public-private partnership.

827 (56) "Procurement item" means an item of personal property, a technology, a service,
828 or a construction project.

829 (57) "Procurement official" means:

830 (a) for a procurement unit other than an independent procurement unit, the chief
831 procurement officer;

832 (b) for a legislative procurement unit, the individual, individuals, or body designated in
833 a policy adopted by the Legislative Management Committee;

834 (c) for a judicial procurement unit, the Judicial Council or an individual or body
835 designated by the Judicial Council by rule;

836 (d) for a local government procurement unit:

837 (i) the legislative body of the local government procurement unit; or

838 (ii) an individual or body designated by the local government procurement unit;

839 (e) for a local district, the board of trustees of the local district or the board of trustees'
840 designee;

841 (f) for a special service district, the governing body of the special service district or the
842 governing body's designee;

843 (g) for a local building authority, the board of directors of the local building authority
844 or the board of directors' designee;

845 (h) for a conservation district, the board of supervisors of the conservation district or
846 the board of supervisors' designee;

847 (i) for a public corporation, the board of directors of the public corporation or the board
848 of directors' designee;

849 (j) for a school district or any school or entity within a school district, the board of the
850 school district or the board's designee;

851 (k) for a charter school, the individual or body with executive authority over the charter
852 school or the designee of the individual or body;

853 (l) for an institution of higher education described in Section [53B-2-101](#), the president
854 of the institution of higher education or the president's designee;

855 (m) for the State Board of Education, the State Board of Education or the State Board
856 of Education's designee;

857 (n) for the Utah Board of Higher Education, the Commissioner of Higher Education or
858 the designee of the Commissioner of Higher Education;

859 (o) for the Utah Communications Authority, established in Section [63H-7a-201](#), the
860 executive director of the Utah Communications Authority or the executive director's designee;
861 or

862 (p) (i) for the building board, and only to the extent of procurement activities of the

863 building board as an independent procurement unit under the procurement authority provided
864 under Title 63A, Chapter 5b, Administration of State Facilities, the director of the building
865 board or the director's designee;

866 (ii) for the facilities division, and only to the extent of procurement activities of the
867 facilities division as an independent procurement unit under the procurement authority
868 provided under Title 63A, Chapter 5b, Administration of State Facilities, the director of the
869 facilities division or the director's designee;

870 (iii) for the attorney general, and only to the extent of procurement activities of the
871 attorney general as an independent procurement unit under the procurement authority provided
872 under Title 67, Chapter 5, Attorney General, the attorney general or the attorney general's
873 designee;

874 (iv) for the Department of Transportation created in Section [72-1-201](#), and only to the
875 extent of procurement activities of the Department of Transportation as an independent
876 procurement unit under the procurement authority provided under Title 72, Transportation
877 Code, the executive director of the Department of Transportation or the executive director's
878 designee; or

879 (v) for any other executive branch department, division, office, or entity that has
880 statutory procurement authority outside this chapter, and only to the extent of the procurement
881 activities of the department, division, office, or entity as an independent procurement unit
882 under the procurement authority provided outside this chapter for the department, division,
883 office, or entity, the chief executive officer of the department, division, office, or entity or the
884 chief executive officer's designee.

885 (58) "Procurement unit":

886 (a) means:

887 (i) a legislative procurement unit;

888 (ii) an executive branch procurement unit;

889 (iii) a judicial procurement unit;

890 (iv) an educational procurement unit;

891 (v) the Utah Communications Authority, established in Section [63H-7a-201](#);

892 (vi) a local government procurement unit;

893 (vii) a local district;

894 (viii) a special service district;

895 (ix) a local building authority;

896 (x) a conservation district;

897 (xi) a public corporation; and

898 (b) does not include a political subdivision created under Title 11, Chapter 13,

899 Interlocal Cooperation Act.

900 (59) "Professional service" means labor, effort, or work that requires specialized
901 knowledge, expertise, and discretion, including labor, effort, or work in the field of:

902 (a) accounting;

903 (b) administrative law judge service;

904 (c) architecture;

905 (d) construction design and management;

906 (e) engineering;

907 (f) financial services;

908 (g) information technology;

909 (h) the law;

910 (i) medicine;

911 (j) psychiatry; or

912 (k) underwriting.

913 (60) "Protest officer" means:

914 (a) for the division or an independent procurement unit:

915 (i) the procurement official;

916 (ii) the procurement official's designee who is an employee of the procurement unit; or

917 (iii) a person designated by rule made by the rulemaking authority; or

918 (b) for a procurement unit other than an independent procurement unit, the chief

919 procurement officer or the chief procurement officer's designee who is an employee of the
920 division.

921 (61) "Public corporation" means the same as that term is defined in Section [63E-1-102](#).

922 (62) "Public entity" means the state or any other government entity within the state that
923 expends public funds.

924 (63) "Public facility" means a building, structure, infrastructure, improvement, or other

925 facility of a public entity.

926 (64) "Public funds" means money, regardless of its source, including from the federal
927 government, that is owned or held by a procurement unit.

928 (65) "Public transit district" means a public transit district organized under Title 17B,
929 Chapter 2a, Part 8, Public Transit District Act.

930 (66) "Public-private partnership" means an arrangement or agreement, occurring on or
931 after January 1, 2017, between a procurement unit and one or more contractors to provide for a
932 public need through the development or operation of a project in which the contractor or
933 contractors share with the procurement unit the responsibility or risk of developing, owning,
934 maintaining, financing, or operating the project.

935 (67) "Qualified vendor" means a vendor who:

936 (a) is responsible; and

937 (b) submits a responsive statement of qualifications under Section [63G-6a-410](#) that
938 meets the minimum mandatory requirements, evaluation criteria, and any applicable score
939 thresholds set forth in the request for statement of qualifications.

940 (68) "Real property" means land and any building, fixture, improvement, appurtenance,
941 structure, or other development that is permanently affixed to land.

942 (69) "Request for information" means a nonbinding process through which a
943 procurement unit requests information relating to a procurement item.

944 (70) "Request for proposals" means a document used to solicit proposals to provide a
945 procurement item to a procurement unit, including all other documents that are attached to that
946 document or incorporated in that document by reference.

947 (71) "Request for proposals process" means the procurement process described in Part
948 7, Request for Proposals.

949 (72) "Request for statement of qualifications" means a document used to solicit
950 information about the qualifications of a person interested in responding to a potential
951 procurement, including all other documents attached to that document or incorporated in that
952 document by reference.

953 (73) "Requirements contract" means a contract:

954 (a) under which a contractor agrees to provide a procurement unit's entire requirements
955 for certain procurement items at prices specified in the contract during the contract period; and

- 956 (b) that:
- 957 (i) does not require a minimum purchase amount; or
- 958 (ii) provides a maximum purchase limit.
- 959 (74) "Responsible" means being capable, in all respects, of:
- 960 (a) meeting all the requirements of a solicitation; and
- 961 (b) fully performing all the requirements of the contract resulting from the solicitation,
- 962 including being financially solvent with sufficient financial resources to perform the contract.
- 963 (75) "Responsive" means conforming in all material respects to the requirements of a
- 964 solicitation.
- 965 (76) "Rule" includes a policy or regulation adopted by the rulemaking authority, if
- 966 adopting a policy or regulation is the method the rulemaking authority uses to adopt provisions
- 967 that govern the applicable procurement unit.
- 968 (77) "Rulemaking authority" means:
- 969 (a) for a legislative procurement unit, the Legislative Management Committee;
- 970 (b) for a judicial procurement unit, the Judicial Council;
- 971 (c) (i) only to the extent of the procurement authority expressly granted to the
- 972 procurement unit by statute:
- 973 (A) for the building board or the facilities division, the building board;
- 974 (B) for the Office of the Attorney General, the attorney general;
- 975 (C) for the Department of Transportation created in Section [72-1-201](#), the executive
- 976 director of the Department of Transportation; and
- 977 (D) for any other executive branch department, division, office, or entity that has
- 978 statutory procurement authority outside this chapter, the governing authority of the department,
- 979 division, office, or entity; and
- 980 (ii) for each other executive branch procurement unit, the board;
- 981 (d) for a local government procurement unit:
- 982 (i) the governing body of the local government unit; or
- 983 (ii) an individual or body designated by the local government procurement unit;
- 984 (e) for a school district or a public school, the board, except to the extent of a school
- 985 district's own nonadministrative rules that do not conflict with the provisions of this chapter;
- 986 (f) for a state institution of higher education, the Utah Board of Higher Education;

987 (g) for the State Board of Education or the Utah Schools for the Deaf and the Blind, the
988 State Board of Education;

989 (h) for a public transit district, the chief executive of the public transit district;

990 (i) for a local district other than a public transit district or for a special service district,
991 the board, except to the extent that the board of trustees of the local district or the governing
992 body of the special service district makes its own rules:

993 (i) with respect to a subject addressed by board rules; or

994 (ii) that are in addition to board rules;

995 (j) for the Utah Educational Savings Plan, created in Section 53B-8a-103, the Utah
996 Board of Higher Education;

997 (k) for the School and Institutional Trust Lands Administration, created in Section
998 53C-1-201, the School and Institutional Trust Lands Board of Trustees;

999 (l) for the School and Institutional Trust Fund Office, created in Section 53D-1-201,
1000 the School and Institutional Trust Fund Board of Trustees;

1001 (m) for the Utah Communications Authority, established in Section 63H-7a-201, the
1002 Utah Communications Authority board, created in Section 63H-7a-203; or

1003 (n) for any other procurement unit, the board.

1004 (78) "Service":

1005 (a) means labor, effort, or work to produce a result that is beneficial to a procurement
1006 unit;

1007 (b) includes a professional service; and

1008 (c) does not include labor, effort, or work provided under an employment agreement or
1009 a collective bargaining agreement.

1010 (79) "Small purchase process" means the procurement process described in Section
1011 63G-6a-506.

1012 (80) "Sole source contract" means a contract resulting from a sole source procurement.

1013 (81) "Sole source procurement" means a procurement without competition pursuant to
1014 a determination under Subsection 63G-6a-802(1)(a) that there is only one source for the
1015 procurement item.

1016 (82) "Solicitation" means an invitation for bids, request for proposals, or request for
1017 statement of qualifications.

- 1018 (83) "Solicitation response" means:
- 1019 (a) a bid submitted in response to an invitation for bids;
- 1020 (b) a proposal submitted in response to a request for proposals; or
- 1021 (c) a statement of qualifications submitted in response to a request for statement of
- 1022 qualifications.
- 1023 (84) "Special service district" means the same as that term is defined in Section
- 1024 [17D-1-102](#).
- 1025 (85) "Specification" means any description of the physical or functional characteristics
- 1026 or of the nature of a procurement item included in an invitation for bids or a request for
- 1027 proposals, or otherwise specified or agreed to by a procurement unit, including a description of:
- 1028 (a) a requirement for inspecting or testing a procurement item; or
- 1029 (b) preparing a procurement item for delivery.
- 1030 (86) "Standard procurement process" means:
- 1031 (a) the bidding process;
- 1032 (b) the request for proposals process;
- 1033 (c) the approved vendor list process;
- 1034 (d) the small purchase process; or
- 1035 (e) the design professional procurement process.
- 1036 (87) "State cooperative contract" means a contract awarded by the division for and in
- 1037 behalf of all public entities.
- 1038 (88) "Statement of qualifications" means a written statement submitted to a
- 1039 procurement unit in response to a request for statement of qualifications.
- 1040 (89) "Subcontractor":
- 1041 (a) means a person under contract to perform part of a contractual obligation under the
- 1042 control of the contractor, whether the person's contract is with the contractor directly or with
- 1043 another person who is under contract to perform part of a contractual obligation under the
- 1044 control of the contractor; and
- 1045 (b) includes a supplier, distributor, or other vendor that furnishes supplies or services
- 1046 to a contractor.
- 1047 (90) "Technology" means the same as "information technology," as defined in Section
- 1048 [63F-1-102](#).

- 1049 (91) "Tie bid" means that the lowest responsive bids of responsible bidders are
1050 identical in price.
- 1051 (92) "Time and materials contract" means a contract under which the contractor is paid:
1052 (a) the actual cost of direct labor at specified hourly rates;
1053 (b) the actual cost of materials and equipment usage; and
1054 (c) an additional amount, expressly described in the contract, to cover overhead and
1055 profit, that is not based on a percentage of the cost to the contractor.
- 1056 (93) "Transitional costs":
1057 (a) means the costs of changing:
1058 (i) from an existing provider of a procurement item to another provider of that
1059 procurement item; or
1060 (ii) from an existing type of procurement item to another type;
1061 (b) includes:
1062 (i) training costs;
1063 (ii) conversion costs;
1064 (iii) compatibility costs;
1065 (iv) costs associated with system downtime;
1066 (v) disruption of service costs;
1067 (vi) staff time necessary to implement the change;
1068 (vii) installation costs; and
1069 (viii) ancillary software, hardware, equipment, or construction costs; and
1070 (c) does not include:
1071 (i) the costs of preparing for or engaging in a procurement process; or
1072 (ii) contract negotiation or drafting costs.
- 1073 (94) "Vendor":
1074 (a) means a person who is seeking to enter into a contract with a procurement unit to
1075 provide a procurement item; and
1076 (b) includes:
1077 (i) a bidder;
1078 (ii) an offeror;
1079 (iii) an approved vendor;

- 1080 (iv) a design professional; and
- 1081 (v) a person who submits an unsolicited proposal under Section [63G-6a-712](#).
- 1082 Section 4. Section **63G-6a-107.6** is amended to read:
- 1083 **63G-6a-107.6. Exemptions from chapter.**
- 1084 (1) Except for this Subsection (1), the provisions of this chapter do not apply to:
- 1085 (a) a public entity's acquisition of a procurement item from another public entity; or
- 1086 (b) a public entity that is not a procurement unit, including the Colorado River
- 1087 Authority of Utah as provided in Section [63M-14-210](#).
- 1088 (2) Unless otherwise provided by statute and except for this Subsection (2), the
- 1089 provisions of this chapter do not apply to the acquisition or disposal of real property or an
- 1090 interest in real property.
- 1091 (3) Except for this Subsection (3) and Part 24, Unlawful Conduct and Penalties, the
- 1092 provisions of this chapter do not apply to:
- 1093 (a) funds administered under the Percent-for-Art Program of the Utah Percent-for-Art
- 1094 Act;
- 1095 (b) a grant;
- 1096 (c) medical supplies or medical equipment, including service agreements for medical
- 1097 equipment, obtained by the University of Utah Hospital through a purchasing consortium if:
- 1098 (i) the consortium uses a competitive procurement process; and
- 1099 (ii) the chief administrative officer of the hospital makes a written finding that the
- 1100 prices for purchasing medical supplies and medical equipment through the consortium are
- 1101 competitive with market prices;
- 1102 (d) the purchase of firefighting supplies or equipment by the Division of Forestry, Fire,
- 1103 and State Lands, created in Section [65A-1-4](#), through the federal General Services
- 1104 Administration or the National Fire Cache system;
- 1105 (e) supplies purchased for resale to the public; or
- 1106 (f) activities related to the management of investments by a public entity granted
- 1107 investment authority by law.
- 1108 (4) This chapter does not supersede the requirements for retention or withholding of
- 1109 construction proceeds and release of construction proceeds as provided in Section [13-8-5](#).
- 1110 (5) Except for this Subsection (5), the provisions of this chapter do not apply to a

1111 procurement unit's hiring a mediator, arbitrator, or arbitration panel member to participate in
1112 the procurement unit's dispute resolution efforts.

1113 Section 5. Section **63J-1-602.2** is amended to read:

1114 **63J-1-602.2. List of nonlapsing appropriations to programs.**

1115 Appropriations made to the following programs are nonlapsing:

1116 (1) The Legislature and the Legislature's committees.

1117 (2) The State Board of Education, including all appropriations to agencies, line items,
1118 and programs under the jurisdiction of the State Board of Education, in accordance with
1119 Section **53F-9-103**.

1120 (3) The Percent-for-Art Program created in Section **9-6-404**.

1121 (4) The LeRay McAllister Critical Land Conservation Program created in Section
1122 **11-38-301**.

1123 (5) Dedicated credits accrued to the Utah Marriage Commission as provided under
1124 Subsection **17-16-21(2)(d)(ii)**.

1125 (6) The Trip Reduction Program created in Section **19-2a-104**.

1126 (7) The Division of Wildlife Resources for the appraisal and purchase of lands under
1127 the Pelican Management Act, as provided in Section **23-21a-6**.

1128 (8) The emergency medical services grant program in Section **26-8a-207**.

1129 (9) The primary care grant program created in Section **26-10b-102**.

1130 (10) Sanctions collected as dedicated credits from Medicaid provider under Subsection
1131 **26-18-3(7)**.

1132 (11) The Utah Health Care Workforce Financial Assistance Program created in Section
1133 **26-46-102**.

1134 (12) The Rural Physician Loan Repayment Program created in Section **26-46a-103**.

1135 (13) The Opiate Overdose Outreach Pilot Program created in Section **26-55-107**.

1136 (14) Funds that the Department of Alcoholic Beverage Control retains in accordance
1137 with Subsection **32B-2-301(8)(a)** or (b).

1138 (15) The General Assistance program administered by the Department of Workforce
1139 Services, as provided in Section **35A-3-401**.

1140 (16) A new program or agency that is designated as nonlapsing under Section
1141 **36-24-101**.

- 1142 (17) The Utah National Guard, created in Title 39, Militia and Armories.
- 1143 (18) The State Tax Commission under Section [41-1a-1201](#) for the:
- 1144 (a) purchase and distribution of license plates and decals; and
- 1145 (b) administration and enforcement of motor vehicle registration requirements.
- 1146 (19) The Search and Rescue Financial Assistance Program, as provided in Section
- 1147 [53-2a-1102](#).
- 1148 (20) The Motorcycle Rider Education Program, as provided in Section [53-3-905](#).
- 1149 (21) The Utah Board of Higher Education for teacher preparation programs, as
- 1150 provided in Section [53B-6-104](#).
- 1151 (22) The Medical Education Program administered by the Medical Education Council,
- 1152 as provided in Section [53B-24-202](#).
- 1153 (23) The Division of Services for People with Disabilities, as provided in Section
- 1154 [62A-5-102](#).
- 1155 (24) The Division of Fleet Operations for the purpose of upgrading underground
- 1156 storage tanks under Section [63A-9-401](#).
- 1157 (25) The Utah Seismic Safety Commission, as provided in Section [63C-6-104](#).
- 1158 (26) Appropriations to the Department of Technology Services for technology
- 1159 innovation as provided under Section [63F-4-202](#).
- 1160 (27) The Office of Administrative Rules for publishing, as provided in Section
- 1161 [63G-3-402](#).
- 1162 (28) The Colorado River Authority of Utah, created in Title 63M, Chapter 14, Colorado
- 1163 River Authority of Utah Act.
- 1164 [~~(28)~~] (29) The Governor's Office of Economic Development to fund the Enterprise
- 1165 Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.
- 1166 [~~(29)~~] (30) Appropriations to fund the Governor's Office of Economic Development's
- 1167 Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural
- 1168 Employment Expansion Program.
- 1169 [~~(30)~~] (31) Appropriations to fund programs for the Jordan River Recreation Area as
- 1170 described in Section [65A-2-8](#).
- 1171 [~~(31)~~] (32) The Department of Human Resource Management user training program, as
- 1172 provided in Section [67-19-6](#).

1173 ~~[(32)]~~ (33) A public safety answering point's emergency telecommunications service
 1174 fund, as provided in Section [69-2-301](#).

1175 ~~[(33)]~~ (34) The Traffic Noise Abatement Program created in Section [72-6-112](#).

1176 ~~[(34)]~~ (35) The Judicial Council for compensation for special prosecutors, as provided
 1177 in Section [77-10a-19](#).

1178 ~~[(35)]~~ (36) A state rehabilitative employment program, as provided in Section
 1179 [78A-6-210](#).

1180 ~~[(36)]~~ (37) The Utah Geological Survey, as provided in Section [79-3-401](#).

1181 ~~[(37)]~~ (38) The Bonneville Shoreline Trail Program created under Section [79-5-503](#).

1182 ~~[(38)]~~ (39) Adoption document access as provided in Sections [78B-6-141](#), [78B-6-144](#),
 1183 and [78B-6-144.5](#).

1184 ~~[(39)]~~ (40) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent
 1185 Defense Commission.

1186 ~~[(40)]~~ (41) The program established by the Division of Facilities Construction and
 1187 Management under Section [63A-5b-703](#) under which state agencies receive an appropriation
 1188 and pay lease payments for the use and occupancy of buildings owned by the Division of
 1189 Facilities Construction and Management.

1190 Section 6. Section **63M-14-101** is enacted to read:

1191 **CHAPTER 14. COLORADO RIVER AUTHORITY OF UTAH ACT**

1192 **Part 1. General Provisions**

1193 **63M-14-101. Title.**

1194 This chapter is known as the "Colorado River Authority of Utah Act."

1195 Section 7. Section **63M-14-102** is enacted to read:

1196 **63M-14-102. Definitions.**

1197 As used in this chapter:

1198 (1) "Appointing authority" means an authority named in Section [63M-14-202](#) that
 1199 appoints an authority member for a Colorado River authority area.

1200 (2) "Authority" means the Colorado River Authority of Utah created by Section
 1201 [63M-14-201](#).

1202 (3) "Authority member" means a person appointed as a member of the authority under
 1203 Section [63M-14-202](#) or designated as a member of the authority.

1204 (4) "Chair" means the chair of the authority.

1205 (5) "Colorado River Basin States" means Arizona, California, Colorado, Nevada, New
1206 Mexico, Utah, and Wyoming.

1207 (6) "Colorado River authority area" means the geographic area designated by
1208 Subsection [63M-14-202](#)(2).

1209 (7) "Colorado River system" means the entire drainage of the Colorado River in Utah
1210 including both the main stem of the Colorado River and the Colorado River's tributaries.

1211 (8) "Law of the river" means the compacts, federal laws, treaties, court decisions and
1212 decrees, contracts, and regulatory guidelines that underlie and authorize the management and
1213 operation of the Colorado River.

1214 (9) "Restricted account" means the Colorado River Authority Restricted Account
1215 created in Section [63M-14-501](#).

1216 (10) "River commissioner" means the person appointed under Section [63M-14-301](#).
1217 Section 8. Section **63M-14-103** is enacted to read:

1218 **63M-14-103. Scope of chapter.**

1219 (1) This chapter may not be interpreted to override, supersede, or modify any water
1220 right within the state, or the role and authority of the state engineer.

1221 (2) The Division of Water Resources shall coordinate with the authority and river
1222 commissioner in the implementation of this chapter.

1223 Section 9. Section **63M-14-201** is enacted to read:

1224 **Part 2. Authority**

1225 **63M-14-201. Authority created.**

1226 There is created within the governor's office the Colorado River Authority of Utah.

1227 Section 10. Section **63M-14-202** is enacted to read:

1228 **63M-14-202. Organization of the authority.**

1229 (1) The authority is composed of six authority members:

1230 (a) five authority members who represent Colorado River authority areas; and

1231 (b) one authority member who represents the governor.

1232 (2) The five Colorado River authority areas, defined by existing county boundaries that
1233 reflect the historic and current use of the Colorado River system, include:

1234 (a) the Central Utah Area composed of Salt Lake, Utah, Juab, Sanpete, Summit,

1235 Wasatch, Duchesne, and Uintah counties, located within the service area of the Central Utah
1236 Water Conservancy District;
1237 (b) the Uintah Basin Area composed of Duchesne and Uintah counties,
1238 notwithstanding that these counties fall within the Central Utah Area;
1239 (c) the Price and San Rafael Area composed of Carbon and Emery Counties;
1240 (d) the Virgin River Area composed of Kane and Washington Counties; and
1241 (e) the State of Utah Area that represents:
1242 (i) the remaining counties using the Colorado River system;
1243 (ii) the Department of Natural Resources and the Department of Natural Resources'
1244 divisions; and
1245 (iii) the users of the Colorado River system that are not specifically included in the
1246 other four Colorado River authority areas and include Daggett, Garfield, Grand, San Juan, and
1247 Wayne Counties.
1248 (3) The members of the authority are:
1249 (a) four members appointed as follows:
1250 (i) a representative of the Central Utah Area appointed by the board of trustees of the
1251 Central Utah Water Conservancy District;
1252 (ii) a representative of the Uintah Basin Area appointed jointly by the boards of
1253 trustees of the Duchesne County and Uintah Water Conservancy Districts;
1254 (iii) a representative of the Price and San Rafael Area appointed jointly by the county
1255 commission of Carbon County and the board of trustees of the Emery Water Conservancy
1256 District; and
1257 (iv) a representative of the Virgin River Area appointed by the board of trustees of the
1258 Washington County Water Conservancy District;
1259 (b) the director of the Division of Water Resources as the representative of the State of
1260 Utah Area created in Subsection (2)(e); and
1261 (c) the executive director of the Department of Natural Resources as the representative
1262 of the governor.
1263 (4) A joint appointment required under Subsection (3) requires the agreement of both
1264 appointing authorities before the authority member seat is filled.
1265 (5) An authority member who is appointed under Subsection (3) shall:

- 1266 (a) be a resident of the state; and
- 1267 (b) have experience and a general knowledge of:
- 1268 (i) Colorado River issues and the use of the Colorado River system in the member's
1269 respective Colorado River authority area;
- 1270 (ii) the development of the use of the waters of the Colorado River system; and
- 1271 (iii) the rights of this state concerning the resources and benefits of the Colorado River
1272 system.
- 1273 (6) (a) An appointing authority shall notify the chair of:
- 1274 (i) the appointing authority's initial appointment to the authority on or before July 1,
1275 2021; and
- 1276 (ii) the appointment of a new member or when a vacancy is being filled.
- 1277 (b) An appointment of an authority member is effective when received by the chair.
- 1278 (c) The initial term of an appointed authority member expires June 30, 2027. Before
1279 June 30, 2027, the authority shall adopt a system to stagger the terms of appointed authority
1280 members beginning July 1, 2027, and notify each appointing authority of the duration of the
1281 term of the appointing authority's authority member. The staggering of terms after July 1, 2027,
1282 shall result in approximately one-third of the appointed authority members' terms expiring
1283 every two years. After the respective terms of adjustment are complete, subsequent authority
1284 members shall be appointed by an appointing authority for six-year terms.
- 1285 (d) An authority member term shall end on June 30. New terms commence on July 1.
- 1286 (e) An authority member whose term has expired shall serve until replaced or
1287 reappointed by the applicable appointing authority.
- 1288 (f) An appointing authority may at any time remove the appointing authority's authority
1289 member for neglect of duty or malfeasance in office. If the authority member is jointly
1290 appointed, the authority member may only be removed by joint agreement of both appointing
1291 authorities.
- 1292 (7) In the event of a vacancy in the authority, the chair shall notify the appointing
1293 authority of the vacancy and ask that an authority member be promptly appointed.
- 1294 (8) (a) An authority member may not receive compensation or benefits for the
1295 member's service, but may receive per diem and travel expenses in accordance with:
- 1296 (i) Section [63A-3-106](#);

1297 (ii) Section 63A-3-107; and
1298 (iii) rules made by the Department of Finance pursuant to Sections 63A-3-106 and
1299 63A-3-107.

1300 (b) If an authority member is a full-time employee with either the state or a water
1301 conservancy district, the authority member is not eligible for the per diem compensation.

1302 (9) The executive director appointed under Section 63M-14-401 shall provide staff
1303 services to the authority.

1304 Section 11. Section 63M-14-203 is enacted to read:

1305 **63M-14-203. Authority operation -- Participation of the Department of Natural**
1306 **Resources.**

1307 (1) An authority member has one vote on authority matters.

1308 (2) (a) Four members of the authority constitute a quorum to conduct authority
1309 business.

1310 (b) A vote of four members is needed to pass authority business.

1311 (3) (a) (i) The river commissioner appointed by the governor before the effective date
1312 of this bill shall serve as the chair of the authority until June 30, 2027, if the river
1313 commissioner is a member of the authority.

1314 (ii) Beginning on July 1, 2027, the river commissioner shall be appointed under
1315 Section 63M-14-301 and shall serve as chair of the authority for a term of six years in
1316 accordance with Section 63M-14-302.

1317 (b) The authority may elect other officers such as vice chair, secretary, and treasurer.

1318 (c) The chair, vice chair, secretary, and treasurer are required to be authority members.

1319 (d) Other officers of the authority are not required to be authority members. The
1320 authority shall adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative
1321 Rulemaking Act, for job responsibilities and terms of offices for the officers appointed under
1322 this Subsection (3)(d).

1323 (e) If an authority officer no longer serves as an officer of the authority, the authority
1324 shall fill the vacancy for the unexpired term of the officer who is no longer serving.

1325 (4) (a) The Department of Natural Resources shall cooperate with the authority.

1326 (b) At the request of the authority, the executive director of the Department of Natural
1327 Resources shall:

1328 (i) provide to the authority data or information collected by the Department of Natural
1329 Resources; and

1330 (ii) ensure that the Department of Natural Resources present information to the
1331 authority.

1332 Section 12. Section **63M-14-204** is enacted to read:

1333 **63M-14-204. Authority's general powers and mission -- Management plan.**

1334 (1) The authority may advise, support, gather information, and provide input to the
1335 river commissioner.

1336 (2) The mission of the authority is to protect, conserve, use, and develop Utah's waters
1337 of the Colorado River system.

1338 (3) The authority may develop a management plan to ensure that Utah can protect and
1339 develop the Colorado River system and to work to ensure that Utah can live within the state's
1340 apportionment of the Colorado River system.

1341 Section 13. Section **63M-14-205** is enacted to read:

1342 **63M-14-205. Records.**

1343 (1) The records of the authority and the river commissioner shall be maintained by the
1344 authority.

1345 (2) The authority may classify a record in accordance with Title 63G, Chapter 2,
1346 Government Access and Management Act, including a record described in Subsection
1347 [63G-2-305\(82\)](#).

1348 Section 14. Section **63M-14-206** is enacted to read:

1349 **63M-14-206. Adoption of rules.**

1350 The authority may, in accordance with Title 63G, Chapter 3, Utah Administrative
1351 Rulemaking Act, adopt rules when expressly authorized by this chapter.

1352 Section 15. Section **63M-14-207** is enacted to read:

1353 **63M-14-207. Reports.**

1354 (1) The authority shall prepare an annual report of the authority's and river
1355 commissioner's activities and submit the report to the following:

1356 (a) the governor, and

1357 (b) the Legislative Management Committee.

1358 (2) The authority shall respond to and participate in meetings as requested by a

1359 legislative committee or by the governor.

1360 Section 16. Section **63M-14-208** is enacted to read:

1361 **63M-14-208. Authority meetings.**

1362 The authority shall comply with Title 52, Chapter 4, Open and Public Meetings Act, in
1363 holding meetings.

1364 Section 17. Section **63M-14-209** is enacted to read:

1365 **63M-14-209. Advisory councils authorized -- Consultations.**

1366 (1) (a) The authority may create authorized advisory councils of interested persons for
1367 consultations with the authority.

1368 (b) The authority shall, by no later than December 31, 2021, make rules governing:

1369 (i) authorized advisory councils;

1370 (ii) authorized advisory council members;

1371 (iii) authorized advisory council leadership; and

1372 (iv) authorized topic areas of interest for each authorized advisory council that directly
1373 relate to the mission and objectives of the authority.

1374 (c) The authority may consult with authorized advisory councils and consider data,
1375 information, and input from these authorized advisory councils relevant to the mission and
1376 objectives of the authority.

1377 (2) The authority may consult with relevant watershed councils created under Title 73,
1378 Chapter 10g, Part 3, Watershed Councils Act.

1379 Section 18. Section **63M-14-210** is enacted to read:

1380 **63M-14-210. Application of state laws.**

1381 (1) (a) The authority is not an executive branch procurement unit under Title 63G,
1382 Chapter 6a, Utah Procurement Code, and is not subject to that chapter.

1383 (b) The authority shall make by rule a procurement procedure substantially similar to
1384 Title 63G, Chapter 6a, Utah Procurement Code, or a procurement code adopted by an
1385 appointing authority.

1386 (c) The authority may contract with an appointing authority that has a local
1387 procurement procedure to deal with procurement in manner consistent with the rules made
1388 under Subsection (1)(b).

1389 (2) (a) The authority shall comply with Title 67, Chapter 19, Utah State Personnel

1390 Management Act, except as provided in this Subsection (2).

1391 (b) (i) The authority may approve, upon recommendation of the chair, that exemption
1392 for specific positions under Subsections 67-19-12(2) and 67-19-15(1) is required to enable the
1393 authority to efficiently fulfill the authority's responsibilities under the law.

1394 (ii) The chair shall consult with the executive director of the Department of Human
1395 Resource Management before making a recommendation under Subsection (2)(b)(i).

1396 (iii) The position of executive director is exempt under Subsections 67-19-12(2) and
1397 67-19-15(1).

1398 (c) (i) The executive director shall set salaries for exempted positions, except for the
1399 executive director, after consultation with the executive director of the Department of Human
1400 Resource Management, within ranges approved by the authority. The chair shall set the salary
1401 of the executive director.

1402 (ii) The authority and executive director shall consider salaries for similar positions in
1403 private enterprise and other public employment when setting salary ranges.

1404 Section 19. Section **63M-14-301** is enacted to read:

1405 **Part 3. River Commissioner**

1406 **63M-14-301. Appointment of river commissioner.**

1407 (1) (a) If the governor appoints the river commissioner before the effective date of this
1408 bill, that appointment expires on June 30, 2027.

1409 (b) If the river commissioner appointed by the governor is also appointed as a member
1410 of the authority, the river commissioner shall serve as the chair of the authority for a term
1411 expiring June 30, 2027.

1412 (c) After June 30, 2027, the authority shall elect a chair, who shall also serve, subject to
1413 the approval of the governor, as the river commissioner.

1414 (2) The term of a river commissioner runs concurrently with the term of the chair as
1415 provided in Sections 63M-14-203 and 63M-14-302.

1416 (3) If the river commissioner no longer serves as river commissioner, the authority
1417 shall fill the vacancy in accordance with Section 63M-14-203.

1418 (4) Notwithstanding Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics
1419 Act, a river commissioner may hold another government position at the same time as being a
1420 river commissioner without creating a conflict of interest.

1421 Section 20. Section **63M-14-302** is enacted to read:

1422 **63M-14-302. Term -- Removal of river commissioner.**

1423 (1) The term of the river commissioner is six years.

1424 (2) The authority, with the consent of the governor, may remove the river

1425 commissioner if the authority finds that the river commissioner has engaged in neglect of duty

1426 or malfeasance in office. If the river commissioner is removed under this Subsection (2), the

1427 removed river commissioner may not serve as chair of the authority or as a member of the

1428 authority.

1429 Section 21. Section **63M-14-303** is enacted to read:

1430 **63M-14-303. Compensation.**

1431 The river commissioner shall serve without compensation, but may receive travel

1432 expenses in accordance with:

1433 (1) Section [63A-3-107](#); and

1434 (2) rules made by the Division of Finance pursuant to Section [63A-3-107](#).

1435 Section 22. Section **63M-14-304** is enacted to read:

1436 **63M-14-304. Duties and powers.**

1437 (1) Before legal action on behalf of the state or the users of the waters of the Colorado

1438 River system may be taken under this chapter, the river commissioner shall request that the

1439 governor and attorney general take legal action on behalf of the state and the users of the waters

1440 of the Colorado River system to assure, conserve, protect, and preserve Utah's allocation of the

1441 waters of the Colorado River system as authorized by the law of the river.

1442 (2) Except as provided in Section [63M-14-402](#), the attorney general shall represent the

1443 river commissioner and the authority, including the authority's members and officers, in all

1444 matters related to the Colorado River. At the request of the authority or the river commissioner,

1445 the attorney general may institute or join legal actions against any party to enforce or defend the

1446 state's rights in matters related to the Colorado River.

1447 (3) The river commissioner shall act for the state and the Utah Colorado River users in

1448 consultations or negotiations with:

1449 (a) the Upper Colorado River Commission;

1450 (b) the states in the Colorado River Compact; and

1451 (c) the government of the United States.

1452 (4) The river commissioner may make and enter into a compact between Utah and
1453 Colorado River Basin States, either jointly or severally. A compact that defines the rights of the
1454 states or of the United States in the waters of the Colorado River system is not binding on Utah
1455 until ratified and approved by:

1456 (a) the Utah State Legislature by joint resolution;

1457 (b) the governor of this state; and

1458 (c) the appropriate federal agency when the federal agency's approval is required.

1459 (5) The river commissioner within the limits of the river commissioner's authority

1460 shall:

1461 (a) represent and act for the state in consultation with other states, the United States,
1462 foreign countries, and private persons, and negotiate and enter into agreements between the
1463 state and those entities, jointly or severally;

1464 (b) represent and act for the state as a member of an interstate or international
1465 commission or other body as may be established relating to the Colorado River system in
1466 transactions with Colorado River Basin States, the federal government, or a foreign country;
1467 and

1468 (c) report to the governor the measures or legislative actions that the river
1469 commissioner considers necessary to carry out the provisions of any law relating to the powers
1470 and duties of the authority.

1471 (6) The river commissioner shall perform the duties imposed by this chapter and
1472 perform all other things the river commissioner considers necessary or expedient to carry out
1473 the purposes of this chapter.

1474 Section 23. Section **63M-14-305** is enacted to read:

1475 **63M-14-305. Authority consultation with river commissioner.**

1476 (1) The river commissioner shall consult with the authority in exercising the powers
1477 and performing the duties of the river commissioner enumerated in this chapter.

1478 (2) The river commissioner shall report and make recommendations to the authority at
1479 the request of the authority or when the river commissioner considers it proper.

1480 (3) The purpose of consulting with and reporting to the authority is to safeguard and
1481 protect the rights and interests of Utah, Utah's agencies, and Utah's citizens in respect of the
1482 waters of the Colorado River system.

1483 Section 24. Section **63M-14-306** is enacted to read:

1484 **63M-14-306. Investigative powers -- Storage of data relating to the use of the**
1485 **Colorado River system.**

1486 (1) The river commissioner may investigate past, present, and potential uses of the
1487 water of the Colorado River system within and without the state.

1488 (2) The river commissioner shall investigate, coordinate, collate, and preserve
1489 information, facts, and data bearing upon the claims of states and of public or private agencies
1490 within and without the state to and in respect of the water and the use of water of the Colorado
1491 River system.

1492 Section 25. Section **63M-14-401** is enacted to read:

1493 **Part 4. Employees of the Authority**

1494 **63M-14-401. Executive director.**

1495 (1) The chair may hire an executive director.

1496 (2) The executive director:

1497 (a) is responsible for the administering and carrying out the policies of the authority;

1498 (b) shall direct and supervise the technical and administrative activities of the
1499 authority;

1500 (c) subject to the supervision of the chair, is responsible for the conduct of the
1501 administrative function of the river commissioner and the authority; and

1502 (d) shall perform any lawful act necessary to carry out the duties of the authority.

1503 (3) The executive director shall, within the limits of available funding, employ the
1504 employees necessary to carry out the functions and duties of the executive director. The
1505 employees have the duties prescribed by the executive director.

1506 Section 26. Section **63M-14-402** is enacted to read:

1507 **63M-14-402. Consultants or other professionals.**

1508 To advise the authority on matters relating to the authority, the executive director may:

1509 (1) employ one or more consultants or other professionals; and

1510 (2) employ or retain legal counsel, with the consent of the attorney general, to advise
1511 the authority or river commissioner on matters relating to the authority's or river
1512 commissioner's operations.

1513 Section 27. Section **63M-14-501** is enacted to read:

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Part 5. Financial Operation

63M-14-501. Colorado River Authority Restricted Account.

(1) There is created a restricted account in the General Fund known as the "Colorado River Authority Restricted Account."

(2) The restricted account shall consist of:

(a) money contributed by the following users of the Colorado River system in an amount that the respective governing bodies considers advisable:

(i) an irrigation district;

(ii) a nonprofit corporation;

(iii) a water conservancy district;

(iv) a municipality; or

(v) a metropolitan water district;

(b) appropriations of the Legislature;

(c) contributions from other sources, including federal funding; and

(d) interest or earnings on the restricted account.

(3) (a) The state treasurer shall invest money in the restricted account according to Title 51, Chapter 7, State Money Management Act.

(b) The state treasurer shall deposit interest or other earnings derived from investment of restricted account money into the restricted account.

(4) Subject to appropriation by the Legislature, money in the restricted account is for the use of the authority to:

(a) fill the authority's statutory duties related to Utah's allocation of water from the Colorado River system;

(b) pay the compensation of employees, consultants, and legal counsel; and

(c) pay the travel expenses of the river commissioner.

(5) In addition to money contributed by the users of the Colorado River system described in Subsection (2)(a), a user may provide in-kind goods and services to the authority.

Section 28. Section **63M-14-502** is enacted to read:

63M-14-502. Budgeting process.

(1) Within the legislative appropriations and in-kind goods and services received by the authority, the authority shall prepare an annual budget of revenues and expenditures for the

1545 authority for each fiscal year.

1546 (2) The authority may not make expenditures in excess of the total expenditures
1547 established in the annual budget as the budget is adopted or amended.

1548 Section 29. Section **73-10-3** is amended to read:

1549 **73-10-3. Organization of board -- Interstate conferences -- Designation of**
1550 **representative -- Salary -- Compacts -- Ratification required.**

1551 (1) The board shall elect a [~~chairman,~~] chair and one or more [~~vice-chairmen,~~]
1552 vice-chairs who shall be members of the board, and shall establish [~~its~~] the board's own rules of
1553 organization and procedure.

1554 (2) The board, with the approval of the executive director of [~~natural resources~~] the
1555 Department of Natural Resources and the governor, shall designate a representative who may
1556 be one of [~~its~~] the board's members to represent the state [~~of Utah~~] in all interstate conferences
1557 between the state [~~of Utah~~] and one or more sister states held for the purpose of entering into
1558 compacts between such states for the division of the waters of interstate rivers, lakes, or other
1559 sources of water supply, and to represent the state [~~of Utah~~] upon all commissions or other
1560 governing bodies provided for by any compacts [~~which~~] that have been or may hereafter be
1561 entered into between the state [~~of Utah~~] and one or more sister states. [~~No such compact shall,~~
1562 ~~however,~~] A compact may not become binding upon the state [~~of Utah until it has been~~] until
1563 the compact is ratified and approved by the Utah State Legislature [~~of the state of Utah~~] and the
1564 legislatures of other states [~~which~~] that are parties [~~thereto~~] to the compact.

1565 (3) In acting as such representative of the state [~~of Utah~~], the representative so acting
1566 shall act under the supervision of the governor, through the executive director of [~~natural~~
1567 ~~resources~~] the Department of Natural Resources and of the Board of Water Resources. The
1568 director of the Division of Finance shall fix the salary to be paid to the representative while
1569 [~~he~~] the representative is acting in this capacity.

1570 (4) The designee of the Water Resource Board shall continue to represent the state as
1571 outlined in Subsections (2) and (3) on waters in the state except for the Colorado River system
1572 which is governed by Title 63M, Chapter 14, Colorado River Authority of Utah Act.

1573 Section 30. Section **73-10-4** is amended to read:

1574 **73-10-4. Powers and duties of board.**

1575 (1) The board shall have the following powers and duties to:

1576 (a) authorize studies, investigations, and plans for the full development, use, and
1577 promotion of the water and power resources of the state, including preliminary surveys, stream
1578 gauging, examinations, tests, and other estimates either separately or in consultation with
1579 federal, state and other agencies;

1580 (b) enter into contracts subject to the provisions of this chapter for the construction of
1581 conservation projects that in the opinion of the board will conserve and use for the best
1582 advantage of the people of this state the water and power resources of the state, including
1583 projects beyond the boundaries of the state of Utah located on interstate waters when the
1584 benefit of such projects accrues to the citizens of the state;

1585 (c) sue and be sued in accordance with applicable law;

1586 (d) supervise in cooperation with the governor and the executive director of natural
1587 resources all matters affecting interstate compact negotiations and the administration of the
1588 compacts affecting the waters of interstate rivers, lakes and other sources of supply, with the
1589 exception of the waters of the Colorado River system that are governed by Title 63M, Chapter
1590 14, Colorado River Authority of Utah Act;

1591 (e) contract with federal and other agencies and with the National Water Resources
1592 Association and to make studies, investigations and recommendations and do all other things
1593 on behalf of the state for any purpose that relates to the development, conservation, protection
1594 and control of the water and power resources of the state;

1595 (f) consult and advise with the Utah Water Users' Association and other organized
1596 water users' associations in the state;

1597 (g) consider and make recommendations on behalf of the state of reclamation projects
1598 or other water development projects for construction by any agency of the state or United
1599 States and in so doing recommend the order in which projects shall be undertaken; or

1600 (h) review, approve, and revoke an application to create a water bank under Chapter
1601 31, Water Banking Act, collect an annual report, maintain the water banking website, and
1602 conduct any other function related to a water bank as described in Chapter 31, Water Banking
1603 Act.

1604 (2) Nothing contained in this section shall be construed to impair or otherwise interfere
1605 with the authority of the state engineer granted by [~~Title 73, Water and Irrigation~~] this title,
1606 except as specifically otherwise provided in this section.

1607 Section 31. Section **73-10-18** is amended to read:

1608 **73-10-18. Division of Water Resources -- Creation -- Power and authority.**

1609 (1) There is created the Division of Water Resources, which shall be within the
1610 Department of Natural Resources under the administration and general supervision of the
1611 executive director [~~of natural resources~~] of the Department of Natural Resources and under the
1612 policy direction of the Board of Water Resources.

1613 (2) [~~The~~] Except for the waters of the Colorado River system that are governed by Title
1614 63M, Chapter 14, Colorado River Authority of Utah Act, the Division of Water Resources
1615 shall:

1616 (a) be the water resource authority for the state; and

1617 (b) assume all of the functions, powers, duties, rights, and responsibilities of the Utah
1618 water and power board except those which are delegated to the board by this act and is vested
1619 with such other functions, powers, duties, rights and responsibilities as provided in this act and
1620 other law.

1621 Section 32. **Effective date.**

1622 If approved by two-thirds of all the members elected to each house, this bill takes effect
1623 upon approval by the governor, or the day following the constitutional time limit of Utah
1624 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
1625 the date of veto override.

1626 Section 33. **Revisor instructions.**

1627 The Legislature intends that the Office of Legislative Research and General Counsel, in
1628 preparing the Utah Code database for publication, replace the references in the following
1629 sections from "the effective date of this bill" to the bill's actual effective date:

1630 (1) Subsection [63M-14-203\(3\)](#); and

1631 (2) Subsection [63M-14-301\(1\)](#).