

DEPARTMENT OF GOVERNMENT OPERATIONS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ann Millner

House Sponsor: Val L. Peterson

LONG TITLE

Committee Note:

The Government Operations Interim Committee recommended this bill.

Legislative Vote: 13 voting for 0 voting against 3 absent

General Description:

This bill amends provisions relating to the Department of Government Operations.

Highlighted Provisions:

This bill:

- ▶ permits the Data Security Management Council to hold a closed meeting to conduct business relating to information technology security;
- ▶ modifies provisions relating to rulemaking authority;
- ▶ clarifies provisions relating to the setting of rates and fees;
- ▶ clarifies provisions relating to risk management;
- ▶ modifies provisions relating to the duties of the Division of Archives and Records Services;
- ▶ modifies provisions relating to the duties of the Division of Technology Services;
- ▶ provides that the Department of Government Operations and the divisions within the department present reports to the Legislature through the Government Operations Interim Committee;
- ▶ clarifies a provision relating to career service employment status;
- ▶ classifies as private a record relating to drug or alcohol testing of a state employee;



28 and

29 ▶ makes technical and conforming changes.

30 **Money Appropriated in this Bill:**

31 None

32 **Other Special Clauses:**

33 This bill provides a special effective date.

34 **Utah Code Sections Affected:**

35 AMENDS:

36 26-6-27, as last amended by Laws of Utah 2021, Chapter 345

37 26-6-32, as last amended by Laws of Utah 2021, Chapter 345

38 52-4-204, as last amended by Laws of Utah 2021, Chapter 217

39 63A-1-105.5, as last amended by Laws of Utah 2020, Chapter 408

40 63A-1-109, as last amended by Laws of Utah 2021, Chapter 344

41 63A-1-114, as last amended by Laws of Utah 2021, Chapters 344 and 382

42 63A-2-103, as last amended by Laws of Utah 2019, Chapter 488

43 63A-2-401, as repealed and reenacted by Laws of Utah 2019, Chapter 488

44 63A-3-201, as last amended by Laws of Utah 2018, Chapter 427

45 63A-3-203, as last amended by Laws of Utah 2017, Chapter 56

46 63A-3-310, as last amended by Laws of Utah 2020, Chapter 297

47 63A-4-101.5, as last amended by Laws of Utah 2021, Chapter 344 and renumbered and
48 amended by Laws of Utah 2021, Chapter 33

49 63A-4-102, as last amended by Laws of Utah 2021, Chapter 33

50 63A-4-201, as last amended by Laws of Utah 2021, Chapter 33

51 63A-5b-203, as enacted by Laws of Utah 2020, Chapter 152

52 63A-5b-303, as enacted by Laws of Utah 2020, Chapter 152

53 63A-5b-606, as enacted by Laws of Utah 2020, Chapter 152

54 63A-5b-607, as last amended by Laws of Utah 2020, Chapter 32 and renumbered and
55 amended by Laws of Utah 2020, Chapter 152 and last amended by Coordination

56 Clause, Laws of Utah 2020, Chapter 152

57 63A-5b-903, as renumbered and amended by Laws of Utah 2020, Chapter 152

58 63A-9-401, as last amended by Laws of Utah 2021, Chapter 344

- 59 **63A-9-501**, as last amended by Laws of Utah 2021, Chapter 344
- 60 **63A-12-101**, as last amended by Laws of Utah 2021, Chapters 84 and 344
- 61 **63A-12-104**, as last amended by Laws of Utah 2021, Chapter 344
- 62 **63A-16-102**, as renumbered and amended by Laws of Utah 2021, Chapter 344
- 63 **63A-16-104**, as last amended by Laws of Utah 2021, Chapter 382 and renumbered and
- 64 amended by Laws of Utah 2021, Chapter 344
- 65 **63A-16-105**, as renumbered and amended by Laws of Utah 2021, Chapter 344
- 66 **63A-16-201**, as renumbered and amended by Laws of Utah 2021, Chapter 344
- 67 **63A-16-202**, as renumbered and amended by Laws of Utah 2021, Chapter 344
- 68 **63A-16-203**, as renumbered and amended by Laws of Utah 2021, Chapter 344
- 69 **63A-16-205**, as renumbered and amended by Laws of Utah 2021, Chapter 344
- 70 **63A-16-208**, as renumbered and amended by Laws of Utah 2021, Chapter 344
- 71 **63A-16-211**, as renumbered and amended by Laws of Utah 2021, Chapter 344
- 72 **63A-16-301**, as renumbered and amended by Laws of Utah 2021, Chapter 344
- 73 **63A-16-501**, as last amended by Laws of Utah 2021, Chapter 162 and renumbered and
- 74 amended by Laws of Utah 2021, Chapter 344
- 75 **63A-16-504**, as renumbered and amended by Laws of Utah 2021, Chapter 344
- 76 **63A-16-505**, as last amended by Laws of Utah 2021, Chapter 162 and renumbered and
- 77 amended by Laws of Utah 2021, Chapter 344
- 78 **63A-16-701**, as renumbered and amended by Laws of Utah 2021, Chapter 344
- 79 **63A-16-702**, as renumbered and amended by Laws of Utah 2021, Chapter 344
- 80 **63A-16-804**, as renumbered and amended by Laws of Utah 2021, Chapter 344
- 81 **63A-16-903**, as renumbered and amended by Laws of Utah 2021, Chapter 344
- 82 **63A-17-106**, as renumbered and amended by Laws of Utah 2021, Chapter 344
- 83 **63A-17-107**, as enacted by Laws of Utah 2021, Chapter 344
- 84 **63A-17-110**, as enacted by Laws of Utah 2021, Chapter 158
- 85 **63A-17-202**, as last amended by Laws of Utah 2021, Chapter 382 and renumbered and
- 86 amended by Laws of Utah 2021, Chapter 344
- 87 **63A-17-304**, as renumbered and amended by Laws of Utah 2021, Chapter 344
- 88 **63A-17-306**, as renumbered and amended by Laws of Utah 2021, Chapter 344
- 89 **63A-17-307**, as renumbered and amended by Laws of Utah 2021, Chapter 344

90 **63A-17-806**, as renumbered and amended by Laws of Utah 2021, Chapter 344
91 **63A-17-1004**, as renumbered and amended by Laws of Utah 2021, Chapter 344
92 **63G-2-302**, as last amended by Laws of Utah 2021, Chapters 100, 100, 143, 143, 367,
93 and 367

94 **63I-5-201 (Superseded 07/01/22)**, as last amended by Laws of Utah 2021, Chapter 184
95 **63I-5-201 (Effective 07/01/22)**, as last amended by Laws of Utah 2021, Second Special
96 Session, Chapter 1

97 **67-3-12**, as last amended by Laws of Utah 2021, Chapter 398 and renumbered and
98 amended by Laws of Utah 2021, Chapter 84 and last amended by Coordination
99 Clause, Laws of Utah 2021, Chapter 398

100 **67-19a-101**, as last amended by Laws of Utah 2021, Chapter 344

101 ENACTS:

102 **67-27-101**, Utah Code Annotated 1953

103 RENUMBERS AND AMENDS:

104 **67-27-102**, (Renumbered from 63A-17-901, as renumbered and amended by Laws of
105 Utah 2021, Chapter 344)

106 **67-27-103**, (Renumbered from 63A-17-902, as last amended by Laws of Utah 2021,
107 Chapter 262 and renumbered and amended by Laws of Utah 2021, Chapter 344)

108 **67-27-104**, (Renumbered from 63A-17-903, as renumbered and amended by Laws of
109 Utah 2021, Chapter 344)

110 REPEALS:

111 **63A-16-106**, as renumbered and amended by Laws of Utah 2021, Chapter 344

112 **63A-16-212**, as renumbered and amended by Laws of Utah 2021, Chapter 344

113 **63A-16-213**, as renumbered and amended by Laws of Utah 2021, Chapter 344

114 **63A-16-401**, as renumbered and amended by Laws of Utah 2021, Chapter 344

115 **63A-16-402**, as renumbered and amended by Laws of Utah 2021, Chapter 344

116 **63A-16-403**, as renumbered and amended by Laws of Utah 2021, Chapter 344

117 **63A-16-502**, as renumbered and amended by Laws of Utah 2021, Chapter 344

118 **63A-16-503**, as renumbered and amended by Laws of Utah 2021, Chapter 344

119

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

121 Section 1. Section **26-6-27** is amended to read:

122 **26-6-27. Information regarding communicable or reportable diseases**

123 **confidentiality -- Exceptions.**

124 (1) Information collected pursuant to this chapter in the possession of the department
125 or local health departments relating to an individual who has or is suspected of having a disease
126 designated by the department as a communicable or reportable disease under this chapter shall
127 be held by the department and local health departments as strictly confidential. The department
128 and local health departments may not release or make public that information upon subpoena,
129 search warrant, discovery proceedings, or otherwise, except as provided by this section.

130 (2) The information described in Subsection (1) may be released by the department or
131 local health departments only in accordance with the requirements of this chapter and as
132 follows:

133 (a) specific medical or epidemiological information may be released with the written
134 consent of the individual identified in that information or, if that individual is deceased, his
135 next-of-kin;

136 (b) specific medical or epidemiological information may be released to medical
137 personnel or peace officers in a medical emergency, as determined by the department in
138 accordance with guidelines it has established, only to the extent necessary to protect the health
139 or life of the individual identified in the information, or of the attending medical personnel or
140 law enforcement or public safety officers;

141 (c) specific medical or epidemiological information may be released to authorized
142 personnel within the department, local health departments, public health authorities, official
143 health agencies in other states, the United States Public Health Service, the Centers for Disease
144 Control and Prevention (CDC), or when necessary to continue patient services or to undertake
145 public health efforts to interrupt the transmission of disease;

146 (d) if the individual identified in the information is under the age of 18, the information
147 may be released to the Division of Child and Family Services within the Department of Human
148 Services in accordance with Section [62A-4a-403](#). If that information is required in a court
149 proceeding involving child abuse or sexual abuse under Title 76, Chapter 5, Offenses Against
150 the Person, the information shall be disclosed in camera and sealed by the court upon
151 conclusion of the proceedings;

152 (e) specific medical or epidemiological information may be released to authorized
153 personnel in the department or in local health departments, and to the courts, to carry out the
154 provisions of this title, and rules adopted by the department in accordance with this title;

155 (f) specific medical or epidemiological information may be released to blood banks,
156 organ and tissue banks, and similar institutions for the purpose of identifying individuals with
157 communicable diseases. The department may, by rule, designate the diseases about which
158 information may be disclosed under this subsection, and may choose to release the name of an
159 infected individual to those organizations without disclosing the specific disease;

160 (g) specific medical or epidemiological information may be released in such a way that
161 no individual is identifiable;

162 (h) specific medical or epidemiological information may be released to a "health care
163 provider" as defined in Section 78B-3-403, health care personnel, and public health personnel
164 who have a legitimate need to have access to the information in order to assist the patient, or to
165 protect the health of others closely associated with the patient;

166 (i) specific medical or epidemiological information regarding a health care provider, as
167 defined in Section 78B-3-403, may be released to the department, the appropriate local health
168 department, and the Division of Occupational and Professional Licensing within the
169 Department of Commerce, if the identified health care provider is endangering the safety or life
170 of any individual by his continued practice of health care;

171 (j) specific medical or epidemiological information may be released in accordance with
172 Section 26-6-31 if an individual is not identifiable; and

173 (k) specific medical or epidemiological information may be released to a state agency
174 as defined in Section [~~63A-17-901~~] 67-27-102, to perform the analysis described in Subsection
175 26-6-32(4) if the state agency agrees to act in accordance with the requirements in this chapter.

176 (3) The provisions of Subsection (2)(h) do not create a duty to warn third parties, but is
177 intended only to aid health care providers in their treatment and containment of infectious
178 disease.

179 Section 2. Section 26-6-32 is amended to read:

180 **26-6-32. Testing for COVID-19 for high-risk individuals at care facilities --**
181 **Collection and release of information regarding risk factors and comorbidities for**
182 **COVID-19.**

183 (1) As used in this section:

184 (a) "Care facility" means a facility described in Subsections [26-6-6\(2\)](#) through (6).

185 (b) "COVID-19" means the same as that term is defined in Section [78B-4-517](#).

186 (2) (a) At the request of the department or a local health department, an individual who
187 meets the criteria established by the department under Subsection (2)(b) shall submit to testing
188 for COVID-19.

189 (b) The department:

190 (i) shall establish protocols to identify and test individuals who are present at a care
191 facility and are at high risk for contracting COVID-19;

192 (ii) may establish criteria to identify care facilities where individuals are at high risk for
193 COVID-19; and

194 (iii) may establish who is responsible for the costs of the testing.

195 (c) (i) The protocols described in Subsection (2)(b)(i) shall:

196 (A) notwithstanding Subsection (2)(a), permit an individual who is a resident of a care
197 facility to refuse testing; and

198 (B) specify criteria for when an individual's refusal to submit to testing under
199 Subsection (2)(c)(i)(A) endangers the health or safety of other individuals at the care facility.

200 (ii) Notwithstanding any other provision of state law, a care facility may discharge a
201 resident who declines testing requested by the department under Subsection (2)(a) if:

202 (A) under the criteria specified by the department under Subsection (2)(c)(i)(B), the
203 resident's refusal to submit to testing endangers the health or safety of other individuals at the
204 care facility; and

205 (B) discharging the resident does not violate federal law.

206 (3) The department may establish protocols to collect information regarding the
207 individual's age and relevant comorbidities from an individual who receives a positive test
208 result for COVID-19.

209 (4) (a) The department shall publish deidentified information regarding comorbidities
210 and other risk factors for COVID-19 in a manner that is accessible to the public.

211 (b) The department may work with a state agency as defined in Section [~~63A-17-901~~]
212 [67-27-102](#), to perform the analysis or publish the information described in Subsection (4)(a).

213 Section 3. Section **52-4-204** is amended to read:

214 **52-4-204. Closed meeting held upon vote of members -- Business -- Reasons for**
215 **meeting recorded.**

216 (1) A closed meeting may be held if:

217 (a) (i) a quorum is present;

218 (ii) the meeting is an open meeting for which notice has been given under Section
219 [52-4-202](#); and

220 (iii) (A) two-thirds of the members of the public body present at the open meeting vote
221 to approve closing the meeting;

222 (B) for a meeting that is required to be closed under Section [52-4-205](#), if a majority of
223 the members of the public body present at an open meeting vote to approve closing the
224 meeting;

225 (C) for an ethics committee of the Legislature that is conducting an open meeting for
226 the purpose of reviewing an ethics complaint, a majority of the members present vote to
227 approve closing the meeting for the purpose of seeking or obtaining legal advice on legal,
228 evidentiary, or procedural matters, or for conducting deliberations to reach a decision on the
229 complaint; or

230 (D) for the Political Subdivisions Ethics Review Commission established in Section
231 [63A-15-201](#) that is conducting an open meeting for the purpose of reviewing an ethics
232 complaint in accordance with Section [63A-15-701](#), a majority of the members present vote to
233 approve closing the meeting for the purpose of seeking or obtaining legal advice on legal,
234 evidentiary, or procedural matters, or for conducting deliberations to reach a decision on the
235 complaint; or

236 (b) (i) for the Independent Legislative Ethics Commission, the closed meeting is
237 convened for the purpose of conducting business relating to the receipt or review of an ethics
238 complaint, [~~provided that~~] if public notice of the closed meeting is given under Section
239 [52-4-202](#), with the agenda for the meeting stating that the meeting will be closed for the
240 purpose of "conducting business relating to the receipt or review of ethics complaints";

241 (ii) for the Political Subdivisions Ethics Review Commission established in Section
242 [63A-15-201](#), the closed meeting is convened for the purpose of conducting business relating to
243 the preliminary review of an ethics complaint in accordance with Section [63A-15-602](#),
244 [~~provided that~~] if public notice of the closed meeting is given under Section [52-4-202](#), with the

245 agenda for the meeting stating that the meeting will be closed for the purpose of "conducting
246 business relating to the review of ethics complaints"; [or]

247 (iii) for the Independent Executive Branch Ethics Commission created in Section
248 [63A-14-202](#), the closed meeting is convened for the purpose of conducting business relating to
249 an ethics complaint, [~~provided that~~] if public notice of the closed meeting is given under
250 Section [52-4-202](#), with the agenda for the meeting stating that the meeting will be closed for
251 the purpose of "conducting business relating to an ethics complaint[-]"; or

252 (iv) for the Data Security Management Council created in Section [63A-16-701](#), the
253 closed meeting is convened for the purpose of conducting business described in Subsection
254 [63A-16-701](#)(5), if public notice of the closed meeting is given under Section [52-4-202](#), with the
255 agenda for the meeting stating that the meeting will be closed for the purpose of "conducting
256 business relating to information technology security."

257 (2) A closed meeting is not allowed unless each matter discussed in the closed meeting
258 is permitted under Section [52-4-205](#).

259 (3) (a) An ordinance, resolution, rule, regulation, contract, or appointment may not be
260 approved at a closed meeting.

261 (b) (i) A public body may not take a vote in a closed meeting, except for a vote on a
262 motion to end the closed portion of the meeting and return to an open meeting.

263 (ii) A motion to end the closed portion of a meeting may be approved by a majority of
264 the public body members present at the meeting.

265 (4) The following information shall be publicly announced and entered on the minutes
266 of the open meeting at which the closed meeting was approved:

267 (a) the reason or reasons for holding the closed meeting;

268 (b) the location where the closed meeting will be held; and

269 (c) the vote by name, of each member of the public body, either for or against the
270 motion to hold the closed meeting.

271 (5) Except as provided in Subsection [52-4-205](#)(2), nothing in this chapter shall be
272 construed to require any meeting to be closed to the public.

273 Section 4. Section [63A-1-105.5](#) is amended to read:

274 **[63A-1-105.5. Rulemaking authority of executive director.](#)**

275 The executive director [~~shall~~] may, upon the recommendation of the appropriate

276 division directors or the director of the Office of Administrative Rules, make rules consistent
277 with state and federal law, and in accordance with Title 63G, Chapter 3, Utah Administrative
278 Rulemaking Act, governing:

- 279 (1) [~~administrative~~] services of the department; and
280 (2) the provision and use of [~~administrative~~] services furnished to state agencies and
281 institutions.

282 Section 5. Section **63A-1-109** is amended to read:

283 **63A-1-109. Divisions of department -- Administration.**

284 (1) The department is composed of:

285 (a) the following divisions:

286 (i) the Division of Purchasing and General Services, created in Section **63A-2-101**;

287 (ii) the Division of Finance, created in Section **63A-3-101**;

288 (iii) the Division of Facilities Construction and Management, created in Section
289 **63A-5b-301**;

290 (iv) the Division of Fleet Operations, created in Section **63A-9-201**;

291 (v) the Division of Archives and Records Service, created in Section **63A-12-101**;

292 (vi) the Division of Technology Services, created in Section **63A-16-103**;

293 (vii) the Division of Human Resource Management, created in Section **63A-17-105**;

294 and

295 (viii) the Division of Risk Management, created in Section **63A-16-201**; and

296 (b) the [~~Utah~~] Office of Administrative Rules, created in Section **63G-3-401**.

297 (2) Each division described in Subsection (1)(a) shall be administered and managed by
298 a division director.

299 Section 6. Section **63A-1-114** is amended to read:

300 **63A-1-114. Rate committee -- Membership -- Duties.**

301 (1) (a) There is created a rate committee consisting of the executive directors,
302 commissioners, or superintendents of seven state agencies, which may include the State Board
303 of Education, that use services and pay rates to one of the department internal service funds, or
304 their designee, that the governor appoints for a two-year term.

305 (b) The department may not have a representative on the rate committee.

306 (c) (i) The committee shall elect a chair from the committee's members.

307 (ii) Members of the committee who are state government employees and who do not
308 receive salary, per diem, or expenses from their agency for their service on the committee shall
309 receive no compensation, benefits, per diem, or expenses for the members' service on the
310 committee.

311 (d) The department shall provide staff services to the committee.

312 (2) (a) A division described in Section 63A-1-109 that manages an internal service
313 fund shall submit to the committee a proposed rate [~~and fee~~] schedule for services rendered by
314 the division to an executive branch entity or an entity that subscribes to services rendered by
315 the division.

316 (b) The committee shall:

317 (i) conduct meetings in accordance with Title 52, Chapter 4, Open and Public Meetings
318 Act;

319 (ii) meet at least once each calendar year to:

320 (A) discuss the service performance of each internal service fund;

321 (B) review the proposed rate [~~and fee~~] schedules;

322 (C) at the rate committee's discretion, approve, increase, or decrease the rate [~~and fee~~]
323 schedules described in Subsection (2)(b)(ii)(B); and

324 (D) discuss any prior or potential adjustments to the service level received by state
325 agencies that pay rates to an internal service fund;

326 (iii) recommend a proposed rate [~~and fee~~] schedule for each internal service fund to:

327 (A) the Governor's Office of Planning and Budget; and

328 (B) each legislative appropriations subcommittee that, in accordance with Section
329 63J-1-410, approves the internal service fund agency's rates[~~, fees,~~] and budget; and

330 (iv) review and approve, increase, or decrease an interim rate[~~, fee, or amount~~] when an
331 internal service fund agency begins a new service or introduces a new product between annual
332 general sessions of the Legislature.

333 (c) The committee may in accordance with Subsection 63J-1-410(4), decrease a rate[~~,
334 fee, or amount~~] that has been approved by the Legislature.

335 Section 7. Section 63A-2-103 is amended to read:

336 **63A-2-103. Duties and authority of purchasing director -- Subscribing to mailing**
337 **system and electronic central store -- Rate schedule.**

338 (1) The purchasing director:
339 (a) shall operate, manage, and maintain:
340 (i) a central mailing service; and
341 (ii) an electronic central store system for procuring goods and services;
342 (b) shall, except when a state surplus property contractor administers the surplus
343 property program, operate, manage, and maintain the surplus property program;
344 (c) shall, when a state surplus property contractor administers the surplus property
345 program, oversee the state surplus property contractor's administration of the surplus property
346 program in accordance with Part 4, Surplus Property Services; and
347 (d) may establish microfilming, duplicating, printing, addressograph, and other central
348 services.

349 (2) (a) Each state agency shall subscribe to all of the services described in Subsection
350 (1)(a), unless the director delegates the director's authority to a state agency under Section
351 [63A-2-104](#).

352 (b) An institution of higher education, the State Board of Education, a school district,
353 or a political subdivision of the state may subscribe to one or more of the services described in
354 Subsection (1)(a).

355 (3) (a) The purchasing director shall:
356 (i) prescribe a schedule of [~~fees~~] rates to be charged for all services provided by the
357 division after the purchasing director:
358 (A) submits the proposed [~~rate, fees, or other amounts~~] rates for services provided by
359 the division's internal service fund to the Rate Committee established in Section [63A-1-114](#);
360 and
361 (B) obtains the approval of the Legislature, as required by Section [~~63J-1-504~~]
362 [63J-1-410](#);

363 (ii) ensure that the [~~fees~~] rates are approximately equal to the cost of providing the
364 services; and
365 (iii) annually conduct a market analysis of [~~fees~~] rates.

366 (b) A market analysis under Subsection (3)(a)(iii) shall include a comparison of the
367 division's rates with the [~~fees~~] rates of other public or private sector providers if comparable
368 services and rates are reasonably available.

369 Section 8. Section **63A-2-401** is amended to read:

370 **63A-2-401. State agencies required to participate in surplus property program --**
371 **Declaring property to be state surplus property -- Division authority.**

372 (1) Except as otherwise provided in this part, a state agency shall dispose of and
373 acquire state surplus property by participating in the surplus property program.

374 (2) A state agency may declare property that the state agency owns to be state surplus
375 property by making a written determination that the property is state surplus property.

376 (3) The division shall determine the appropriate method for disposing of state surplus
377 property.

378 (4) The division may:

379 (a) establish facilities to store state surplus property at locations throughout the state;
380 and

381 (b) after consultation with the state agency requesting the sale of state surplus property,
382 establish the selling price for the state surplus property.

383 (5) As provided in Title 63J, Chapter 1, Budgetary Procedures Act, the division may
384 transfer proceeds generated by the sale of state surplus property to the state agency requesting
385 the sale, reduced by a [fee] rate approved in accordance with Subsection [63A-2-103\(3\)](#) to pay
386 the division's costs of administering the surplus property program.

387 (6) By following the procedures and requirements of Title 63G, Chapter 3, Utah
388 Administrative Rulemaking Act, the division may make rules establishing a surplus property
389 program that meets the requirements of this chapter.

390 Section 9. Section **63A-3-201** is amended to read:

391 **63A-3-201. Appointment of accounting and other officers and employees by**
392 **director of the Division of Finance -- Delegation of powers and duties by director --**
393 **Background checks.**

394 (1) With the approval of the executive director, the director of the Division of Finance
395 shall appoint an accounting officer and other administrative officers that are necessary to
396 efficiently and economically perform the functions of the Division of Finance.

397 (2) The director of the Division of Finance may:

398 (a) organize the division and employ other assistants to discharge the functions of the
399 division;

400 (b) delegate to assistants, officers, and employees any of the powers and duties of the
401 office subject to his or her control and subject to any conditions he may prescribe; and

402 (c) delegate the powers and duties of the office only by written order filed with the
403 lieutenant governor.

404 (3) (a) As used in this Subsection (3):

405 (i) "Public employee" means a person employed by a state agency.

406 (ii) "Public funds" means money, funds, and accounts, regardless of the source from
407 which the money, funds, and accounts are derived, that are owned, held, or administered by a
408 state agency.

409 (iii) "Public funds position" means employment with a state agency that requires:

410 (A) physical or electronic access to public funds;

411 (B) performing internal control functions or accounting;

412 (C) creating reports on public funds; or

413 (D) using, operating, or accessing state systems that account for or help account for
414 public funds.

415 (iv) "State agency" means:

416 (A) an executive branch agency; or

417 (B) a state educational institution with the exception of an institution defined in
418 Subsection [53B-1-102\(1\)](#).

419 (b) The Division of Finance may require that a public employee who applies for or
420 holds a public funds position:

421 (i) submit a fingerprint card in a form acceptable to the division;

422 (ii) consent to a criminal background check by:

423 (A) the Federal Bureau of Investigation;

424 (B) the Utah Bureau of Criminal Identification; or

425 (C) another agency of any state that performs criminal background checks; or

426 (iii) consent to a credit history report, subject to the requirements of the Fair Credit
427 Reporting Act, 15 U.S.C. Sec. 1681 et seq.

428 (c) The Bureau of Criminal Identification shall provide all the results from the state,
429 regional, and nationwide criminal history background checks to the division.

430 (d) The Division of Finance may, in accordance with Title 63G, Chapter 3, Utah

431 Administrative Rulemaking Act, [~~adopt~~] make rules to implement this section.

432 Section 10. Section **63A-3-203** is amended to read:

433 **63A-3-203. Accounting control over state departments and agencies --**

434 **Prescription and approval of financial forms and accounting systems.**

435 (1) The director of the Division of Finance shall:

436 (a) exercise accounting control over all state departments and agencies except
437 institutions of higher education; and

438 (b) prescribe the manner and method of certifying that funds are available and adequate
439 to meet all contracts and obligations.

440 (2) The director shall audit all claims against the state for which an appropriation [~~has~~
441 ~~been~~] is made.

442 (3) (a) The director shall prescribe:

443 (i) all forms of requisitions, receipts, vouchers, bills, or claims to be used by all state
444 departments and agencies; and

445 (ii) all forms to be used by the division.

446 (b) Before approving the forms in Subsection (3)(a), the director shall obtain approval
447 from the state auditor that the forms will adequately facilitate the post-audit of public accounts.

448 (4) Before implementation by any state agency, the director of the Division of Finance
449 shall review and approve any accounting system developed by a state agency.

450 Section 11. Section **63A-3-310** is amended to read:

451 **63A-3-310. Rules for implementing part.**

452 The division may [~~adopt~~] make rules, in accordance with Title 63G, Chapter 3, Utah
453 Administrative Rulemaking Act, for the implementation of this part, including rules for the
454 conduct of hearings, injured spouse claims, and appointment of hearing examiners.

455 Section 12. Section **63A-4-101.5** is amended to read:

456 **63A-4-101.5. Risk manager -- Appointment -- Duties.**

457 (1) (a) There is created within the department the Division of Risk Management.

458 (b) The executive director shall, with the approval of the governor, appoint a risk
459 manager as the division director, who shall be qualified by education and experience in the
460 management of general property and casualty insurance.

461 (2) The risk manager shall:

- 462 (a) except as provided in Subsection (4), acquire and administer the following
463 purchased by the state or any captive insurance company created by the risk manager:
- 464 (i) all property and casualty insurance;
 - 465 (ii) reinsurance of property and casualty insurance; and
 - 466 (iii) subject to Section 34A-2-203, workers' compensation insurance;
- 467 ~~[(b) recommend that the executive director make rules:]~~
- 468 (b) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative
469 Rulemaking Act:
- 470 (i) prescribing reasonable and objective underwriting and risk control standards for:
 - 471 (A) all covered entities of the Risk Management Fund; and
 - 472 (B) any captive insurance company created by the risk manager;
 - 473 (ii) prescribing the risks to be covered by the Risk Management Fund and the extent to
474 which these risks will be covered;
 - 475 (iii) prescribing the properties, risks, deductibles, and amount limits eligible for
476 payment out of the Risk Management Fund;
 - 477 (iv) prescribing procedures for making claims and proof of loss; and
 - 478 (v) establishing procedures for the resolution of disputes relating to coverage or claims,
479 which may include binding arbitration;
 - 480 (c) implement a risk management and loss prevention program for covered entities for
481 the purpose of reducing risks, accidents, and losses to assist covered entities in fulfilling their
482 responsibilities for risk control and safety;
 - 483 (d) coordinate and cooperate with any covered entity having responsibility to manage
484 and protect state properties, including:
 - 485 (i) the state fire marshal;
 - 486 (ii) the director of the Division of Facilities Construction and Management;
 - 487 (iii) the Department of Public Safety;
 - 488 (iv) institutions of higher education;
 - 489 (v) school districts; and
 - 490 (vi) charter schools;
 - 491 (e) maintain records necessary to fulfill the requirements of this section;
 - 492 (f) manage the Risk Management Fund and any captive insurance company created by

493 the risk manager in accordance with economically and actuarially sound principles to produce
494 adequate reserves for the payment of contingencies, including unpaid and unreported claims,
495 and may purchase any insurance or reinsurance considered necessary to accomplish this
496 objective; and

497 (g) inform the covered entity's governing body and the governor when any covered
498 entity fails or refuses to comply with reasonable risk control recommendations made by the risk
499 manager.

500 (3) Before the effective date of any rule, the risk manager shall provide a copy of the
501 rule to each covered entity affected by it.

502 (4) The risk manager may not use a captive insurance company created by the risk
503 manager to purchase:

504 (a) workers' compensation insurance;

505 (b) health insurance; or

506 (c) life insurance.

507 Section 13. Section **63A-4-102** is amended to read:

508 **63A-4-102. Risk manager -- Powers.**

509 (1) The risk manager may:

510 (a) enter into contracts;

511 (b) form one or more captive insurance companies authorized under Title 31A, Chapter
512 37, Captive Insurance Companies Act;

513 (c) purchase insurance or reinsurance;

514 (d) adjust, settle, and pay claims;

515 (e) pay expenses and costs;

516 (f) study the risks of all covered entities and properties;

517 (g) issue certificates of coverage or insurance for covered entities with respect to any
518 risks covered by the Risk Management Fund or any captive insurance company created by the
519 risk manager;

520 (h) make recommendations about risk management and risk reduction strategies to
521 covered entities;

522 (i) in consultation with the attorney general, prescribe insurance, indemnification, and
523 liability provisions to be included in all state contracts;

524 (j) review covered entity building construction, major remodeling plans, [agency]
525 program plans, and make recommendations to the [agency] covered entity about needed
526 changes to address risk considerations;

527 (k) attend [agency] covered entity planning and management meetings when necessary;

528 (l) review any proposed legislation and communicate with legislators and legislative
529 committees about the liability or risk management issues connected with any legislation; and

530 (m) solicit any needed information about [~~agency plans, agency programs, or agency~~]
531 covered entity plans, programs, or risks necessary to perform the risk manager's responsibilities
532 under this part.

533 (2) (a) The risk manager may expend money from the Risk Management Fund to
534 procure and provide coverage to all covered entities and their indemnified employees, except
535 those entities or employees specifically exempted by statute.

536 (b) The risk manager shall apportion the costs of that coverage according to the
537 requirements of this part.

538 (3) Before charging a rate, fee, or other amount to an executive branch agency, or to a
539 subscriber of services other than an executive branch agency, the director shall:

540 (a) submit the proposed rates, fees, or other amount and cost analysis to the Rate
541 Committee established in Section 63A-1-114; and

542 (b) obtain the approval of the Legislature as required by Section 63J-1-410.

543 (4) The director shall conduct a market analysis by July 1, 2005, and periodically
544 thereafter, of proposed rates and [~~fees~~] premiums, which analysis shall include a comparison of
545 the division's rates and [~~fees with the fees~~] premiums with the rates and premiums of other
546 public or private sector providers where comparable services and rates are reasonably available.

547 Section 14. Section **63A-4-201** is amended to read:

548 **63A-4-201. Risk Management Fund created -- Administration -- Use.**

549 (1) (a) There is created the Risk Management Fund, which shall be administered by the
550 risk manager.

551 (b) The fund shall cover property, liability, fidelity, and other risks as determined by
552 the risk manager in consultation with the executive director.

553 (2) The risk manager may only use the Risk Management Fund to pay:

554 (a) insurance or reinsurance premiums;

555 (b) costs of administering the Risk Management Fund and any captive insurance
556 companies created by the risk manager;

557 (c) loss adjustment expenses;

558 (d) risk control and related educational and training expenses; and

559 (e) loss costs which at the time of loss were eligible for payment under rules

560 [~~previously issued by the executive director under the authority of Section 63A-4-101.5~~] made
561 by the risk manager in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
562 Act.

563 (3) In addition to any money appropriated to the Risk Management Fund by the
564 Legislature, the risk manager shall deposit with the state treasurer for credit to the Risk
565 Management Fund:

566 (a) any insured loss or loss expenses paid by insurance or reinsurance companies;

567 (b) the gross amount of all premiums and surcharges received under Section
568 63A-4-202;

569 (c) the net refunds from cancelled insurance policies necessary to self-insure previously
570 insured risks, with the balance of the proceeds to be refunded to the previously insured entities;

571 (d) all refunds, returns, or dividends from insurance carriers not specifically covered in
572 Subsections (3)(a), (b), and (c);

573 (e) savings from amounts otherwise appropriated for participation in the fund; and

574 (f) all net proceeds from sale of salvage and subrogation recoveries from adverse
575 parties related to losses paid out of the fund.

576 (4) The state treasurer shall invest the Risk Management Fund in accordance with
577 Section 63A-4-208 and deposit all interest or other income earned from investments into the
578 Risk Management Fund.

579 Section 15. Section **63A-5b-203** is amended to read:

580 **63A-5b-203. Meetings of state building board -- Rules of procedure -- Quorum.**

581 (1) The board shall meet quarterly and at other times at the call of the executive
582 director or at the request of the board chair.

583 (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
584 board shall [~~adopt~~] make rules of procedure for the conduct of the board's meetings.

585 (3) Four members of the board constitute a quorum for the transaction of business.

586 (4) The board shall conduct all meetings of the board in accordance with Title 52,
587 Chapter 4, Open and Public Meetings Act.

588 Section 16. Section **63A-5b-303** is amended to read:

589 **63A-5b-303. Duties and authority of division.**

590 (1) (a) The division shall:

591 (i) subject to Subsection (1)(b), supervise and control the allocation of space, in
592 accordance with legislative directive through annual appropriations acts, other legislation, or
593 statute, to agencies in all buildings or space owned, leased, or rented by or to the state, except
594 as provided in Subsection (3) or as otherwise provided by statute;

595 (ii) assure the efficient use of all building space under the division's supervision and
596 control;

597 (iii) acquire title to all real property, buildings, fixtures, and appurtenances for use by
598 the state or an agency, as authorized by the Legislature through an appropriation act, other
599 legislation, or statute, subject to Subsection (1)(c);

600 (iv) except as otherwise provided by statute, hold title to all real property, buildings,
601 fixtures, and appurtenances owned by the state or an agency;

602 (v) collect and maintain all deeds, abstracts of title, and all other documents evidencing
603 title to or an interest in property belonging to the state or of the state's departments, except
604 institutions of higher education and the trust lands administration;

605 (vi) (A) periodically conduct a market analysis of proposed rates and fees; and

606 (B) include in a market analysis a comparison of the division's rates and fees with the
607 rates and fees of other public or private sector providers of comparable services, if rates and
608 fees for comparable services are reasonably available;

609 (vii) implement the state building energy efficiency program under Section
610 [63A-5b-1002](#);

611 (viii) convey, lease, or dispose of the real property, water rights, or water shares
612 associated with the Utah State Developmental Center if directed to do so by the Utah State
613 Developmental Center board, as provided in Subsection [62A-5-206.6\(2\)](#); and

614 (ix) take all other action that the division is required to do under this chapter or other
615 applicable statute.

616 (b) In making an allocation of space under Subsection (1)(a)(i), the division shall

617 conduct one or more studies to determine the actual needs of each agency.

618 (c) The division may, without legislative approval, acquire title to real property for use
619 by the state or an agency if the acquisition cost does not exceed \$250,000.

620 (2) The division may:

621 (a) sue and be sued;

622 (b) as authorized by the Legislature, buy, lease, or otherwise acquire, by exchange or
623 otherwise, and hold real or personal property necessary for the discharge of the division's
624 duties; and

625 (c) take all other action necessary for carrying out the purposes of this chapter.

626 (3) (a) The division may not supervise or control the allocation of space for an
627 institution of higher education or an entity in the public education system.

628 (b) The supervision and control of the legislative area is reserved to the Legislature.

629 (c) The supervision and control of the trial courts area is reserved to the judiciary.

630 (d) The supervision and control of capitol hill facilities and capitol hill grounds is
631 reserved to the State Capitol Preservation Board.

632 (4) Before the division charges a rate, fee, or other amount for a service provided by
633 the division's internal service fund to an executive branch agency, or to a service subscriber
634 other than an executive branch agency, the division shall:

635 (a) submit an analysis of the proposed rate, fee, or other amount to the rate committee
636 created in Section [63A-1-114](#); and

637 (b) obtain the approval of the Legislature as required by Section [63J-1-410](#) or
638 [63J-1-504](#).

639 Section 17. Section **63A-5b-606** is amended to read:

640 **63A-5b-606. Dispute resolution process -- Penalties for fraud or bad faith claim.**

641 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
642 director shall [~~adopt~~] make rules for the division establishing a process for resolving disputes
643 involved with contracts under the division's procurement authority.

644 (2) The director shall consider, and the rules may include:

645 (a) requirements regarding preliminary resolution efforts between the parties directly
646 involved with the dispute;

647 (b) requirements for the filing of a claim, including notification, time frames, and

648 documentation;

649 (c) identification of the types of costs eligible for allocation and a method for allocating
650 costs among the parties to the dispute;

651 (d) a required time period, not to exceed 60 days, for the resolution of the claim;

652 (e) a provision for an independent hearing officer, panel, or arbitrator to extend the
653 time period for resolution of the claim by not to exceed 60 additional days for good cause;

654 (f) a provision for the extension of required time periods if the claimant agrees;

655 (g) requirements that decisions be issued in writing;

656 (h) provisions for an administrative appeal of a decision;

657 (i) provisions for the timely payment of claims after resolution of the dispute, including
658 any appeals;

659 (j) a requirement that the final determination resulting from the dispute resolution
660 process provided for in the rules is a final agency action subject to judicial review as provided
661 in Sections [63G-4-401](#) and [63G-4-402](#);

662 (k) a requirement that a claim or dispute that does not include a monetary claim against
663 the division or an agent of the division is not limited to the dispute resolution process provided
664 for in this section;

665 (l) requirements for claims and disputes to be eligible for the dispute resolution process
666 under this section;

667 (m) the use of an independent hearing officer or panel or the use of arbitration or
668 mediation; and

669 (n) the circumstances under which a subcontractor may file a claim directly with the
670 division.

671 (3) A person pursuing a claim under the process established as provided in this section:

672 (a) is bound by the decision reached under this process, subject to any modification of
673 the decision on appeal; and

674 (b) may not pursue a claim, protest, or dispute under the dispute resolution process
675 established in Title 63G, Chapter 6a, Utah Procurement Code.

676 (4) A fraudulent misrepresentation made by or bad faith claim pursued by a contractor,
677 subcontractor, or supplier, may be grounds for:

678 (a) the director to suspend or debar the contractor, subcontractor, or supplier; or

679 (b) the contractor, subcontractor, or supplier to be disciplined by the Division of
680 Professional and Occupational Licensing.

681 Section 18. Section **63A-5b-607** is amended to read:

682 **63A-5b-607. Health insurance requirements -- Penalties.**

683 (1) As used in this section:

684 (a) "Aggregate amount" means the dollar sum of all contracts, change orders, and
685 modifications for a single project.

686 (b) "Change order" means the same as that term is defined in Section [63G-6a-103](#).

687 (c) "Eligible employee" means an employee, as defined in Section [34A-2-104](#), who:

688 (i) works at least 30 hours per calendar week; and

689 (ii) meets the employer eligibility waiting period for qualified health insurance
690 coverage provided by the employer.

691 (d) "Health benefit plan" means:

692 (i) the same as that term is defined in Section [31A-1-301](#); or

693 (ii) an employee welfare benefit plan:

694 (A) established under the Employee Retirement Income Security Act of 1974, 29
695 U.S.C. Sec. 1001 et seq.;

696 (B) for an employer with 100 or more employees; and

697 (C) in which the employer establishes a self-funded or partially self-funded group
698 health plan to provide medical care for the employer's employees and dependents of the
699 employees.

700 (e) "Qualified health insurance coverage" means the same as that term is defined in
701 Section [26-40-115](#).

702 (f) "Subcontractor" means the same as that term is defined in Section [63A-5b-605](#).

703 (g) "Third party administrator" or "administrator" means the same as that term is
704 defined in Section [31A-1-301](#).

705 (2) Except as provided in Subsection (3), the requirements of this section apply to:

706 (a) a contractor of a design or construction contract with the division if the prime
707 contract is in an aggregate amount of \$2,000,000 or more; and

708 (b) a subcontractor of a contractor of a design or construction contract with the division
709 if the subcontract is in an aggregate amount of \$1,000,000 or more.

710 (3) The requirements of this section do not apply to a contractor or subcontractor if:
711 (a) the application of this section jeopardizes the division's receipt of federal funds;
712 (b) the contract is a sole source contract, as defined in Section [63G-6a-103](#); or
713 (c) the contract is the result of an emergency procurement.
714 (4) A person who intentionally uses a change order, contract modification, or multiple
715 contracts to circumvent the requirements of this section is guilty of an infraction.
716 (5) (a) A contractor that is subject to the requirements of this section shall:
717 (i) make and maintain an offer of qualified health coverage for the contractor's eligible
718 employees and the eligible employees' dependents; and
719 (ii) submit to the director a written statement demonstrating that the contractor is in
720 compliance with Subsection (5)(a)(i).
721 (b) A statement under Subsection (5)(a)(ii):
722 (i) shall be from:
723 (A) an actuary selected by the contractor or the contractor's insurer;
724 (B) an underwriter who is responsible for developing the employer group's premium
725 rates; or
726 (C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii),
727 an actuary or underwriter selected by a third party administrator; and
728 (ii) may not be created more than one year before the day on which the contractor
729 submits the statement to the director.
730 (c) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii)
731 shall provide the actuary or underwriter selected by an administrator, as described in
732 Subsection (5)(b)(i)(C), sufficient information to determine whether the contractor's
733 contribution to the health benefit plan and the actuarial value of the health benefit plan meet the
734 requirements of qualified health coverage.
735 (ii) A contractor may not make a change to the contractor's contribution to the health
736 benefit plan, unless the contractor provides notice to:
737 (A) the actuary or underwriter selected by an administrator, as described in Subsection
738 (5)(b)(i)(C), for the actuary or underwriter to update the written statement described in
739 Subsection (5)(a) in compliance with this section; and
740 (B) the division.

- 741 (6) (a) A contractor that is subject to the requirements of this section shall:
- 742 (i) ensure that each contract the contractor enters with a subcontractor that is subject to
- 743 the requirements of this section requires the subcontractor to obtain and maintain an offer of
- 744 qualified health coverage for the subcontractor's eligible employees and the eligible employees'
- 745 dependents during the duration of the subcontract; and
- 746 (ii) obtain from a subcontractor referred to in Subsection (6)(a)(i) a written statement
- 747 demonstrating that the subcontractor offers qualified health coverage to eligible employees and
- 748 eligible employees' dependents.
- 749 (b) A statement under Subsection (6)(a)(ii):
- 750 (i) shall be from:
- 751 (A) an actuary selected by the subcontractor or the subcontractor's insurer;
- 752 (B) an underwriter who is responsible for developing the employer group's premium
- 753 rates; or
- 754 (C) if the subcontractor provides a health benefit plan described in Subsection
- 755 (1)(d)(ii), an actuary or underwriter selected by an administrator; and
- 756 (ii) may not be created more than one year before the day on which the contractor
- 757 obtains the statement from the subcontractor.
- 758 (7) (a) (i) A contractor that fails to maintain an offer of qualified health coverage
- 759 during the duration of the contract as required in this section is subject to penalties in
- 760 accordance with administrative rules [~~adopted~~] made by the division under this section, in
- 761 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 762 (ii) A contractor is not subject to penalties for the failure of a subcontractor to obtain
- 763 and maintain an offer of qualified health coverage as required in this section.
- 764 (b) (i) A subcontractor that fails to obtain and maintain an offer of qualified health
- 765 coverage during the duration of the subcontract as required in this section is subject to penalties
- 766 in accordance with administrative rules [~~adopted~~] made by the division under this section, in
- 767 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 768 (ii) A subcontractor is not subject to penalties for the failure of a contractor to maintain
- 769 an offer of qualified health coverage as required in this section.
- 770 (8) The division shall [~~adopt administrative~~] make rules:
- 771 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

- 772 (b) in coordination with:
- 773 (i) the Department of Environmental Quality in accordance with Section 19-1-206;
- 774 (ii) the Department of Natural Resources in accordance with Section 79-2-404;
- 775 (iii) a public transit district in accordance with Section 17B-2a-818.5;
- 776 (iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;
- 777 (v) the Department of Transportation in accordance with Section 72-6-107.5; and
- 778 (vi) the Legislature's Administrative Rules Review Committee; and
- 779 (c) that establish:
- 780 (i) the requirements and procedures for a contractor and a subcontractor to demonstrate
- 781 compliance with this section, including:
- 782 (A) a provision that a contractor or subcontractor's compliance with this section is
- 783 subject to an audit by the division or the Office of the Legislative Auditor General;
- 784 (B) a provision that a contractor that is subject to the requirements of this section
- 785 obtain a written statement as provided in Subsection (5); and
- 786 (C) a provision that a subcontractor that is subject to the requirements of this section
- 787 obtain a written statement as provided in Subsection (6);
- 788 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally
- 789 violates the provisions of this section, which may include:
- 790 (A) a three-month suspension of the contractor or subcontractor from entering into a
- 791 future contract with the state upon the first violation;
- 792 (B) a six-month suspension of the contractor or subcontractor from entering into a
- 793 future contract with the state upon the second violation;
- 794 (C) an action for debarment of the contractor or subcontractor in accordance with
- 795 Section 63G-6a-904 upon the third or subsequent violation; and
- 796 (D) monetary penalties which may not exceed 50% of the amount necessary to
- 797 purchase qualified health coverage for eligible employees and dependents of eligible
- 798 employees of the contractor or subcontractor who were not offered qualified health coverage
- 799 during the duration of the contract; and
- 800 (iii) a website for the department to post the commercially equivalent benchmark for
- 801 the qualified health coverage that is provided by the Department of Health in accordance with
- 802 Subsection 26-40-115(2).

803 (9) During the duration of a contract, the division may perform an audit to verify a
804 contractor or subcontractor's compliance with this section.

805 (10) (a) Upon the division's request, a contractor or subcontractor shall provide the
806 division:

807 (i) a signed actuarial certification that the coverage the contractor or subcontractor
808 offers is qualified health coverage; or

809 (ii) all relevant documents and information necessary for the division to determine
810 compliance with this section.

811 (b) If a contractor or subcontractor provides the documents and information described
812 in Subsection (10)(a)(i), the Insurance Department shall assist the division in determining if the
813 coverage the contractor or subcontractor offers is qualified health coverage.

814 (11) (a) (i) In addition to the penalties imposed under Subsection (7), a contractor or
815 subcontractor that intentionally violates the provisions of this section is liable to an eligible
816 employee for health care costs that would have been covered by qualified health coverage.

817 (ii) An employer has an affirmative defense to a cause of action under Subsection
818 (11)(a)(i) if:

819 (A) the employer relied in good faith on a written statement described in Subsection (5)
820 or (6); or

821 (B) the department determines that compliance with this section is not required under
822 the provisions of Subsection (3).

823 (b) An eligible employee has a private right of action against the employee's employer
824 only as provided in this Subsection (11).

825 (12) The director shall cause money collected from the imposition and collection of a
826 penalty under this section to be deposited into the Medicaid Restricted Account created by
827 Section [26-18-402](#).

828 (13) The failure of a contractor or subcontractor to provide qualified health coverage as
829 required by this section:

830 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,
831 or contractor under:

832 (i) Section [63G-6a-1602](#); or

833 (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

834 (b) may not be used by the procurement entity or a prospective bidder, offeror, or
835 contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design
836 or construction.

837 (14) An employer's waiting period for an employee to become eligible for qualified
838 health coverage may not extend beyond the first day of the calendar month following 60 days
839 after the day on which the employee is hired.

840 (15) An administrator, including an administrator's actuary or underwriter, who
841 provides a written statement under Subsection (5)(a) or (c) regarding the qualified health
842 coverage of a contractor or subcontractor who provides a health benefit plan described in
843 Subsection (1)(d)(ii):

844 (a) subject to Subsection (11)(b), is not liable for an error in the written statement,
845 unless the administrator commits gross negligence in preparing the written statement;

846 (b) is not liable for any error in the written statement if the administrator relied in good
847 faith on information from the contractor or subcontractor; and

848 (c) may require as a condition of providing the written statement that a contractor or
849 subcontractor hold the administrator harmless for an action arising under this section.

850 Section 19. Section **63A-5b-903** is amended to read:

851 **63A-5b-903. Rules made by the division.**

852 The division may, in accordance with Title 63G, Chapter 3, Utah Administrative
853 Rulemaking Act, make rules [to] that:

854 (1) establish criteria that a written proposal is required to satisfy in order to be a
855 qualified proposal, including, if applicable, a minimum acceptable purchase price; and

856 (2) define criteria that the director will consider in making a determination whether a
857 proposed use or occupancy, transfer of ownership, or lease of vacant division-owned property
858 provides a material benefit to the state.

859 Section 20. Section **63A-9-401** is amended to read:

860 **63A-9-401. Division -- Duties.**

861 (1) The division shall:

862 (a) perform all administrative duties and functions related to management of state
863 vehicles;

864 (b) coordinate all purchases of state vehicles;

- 865 (c) establish one or more fleet automation and information systems for state vehicles;
- 866 (d) make rules establishing requirements for:
- 867 (i) maintenance operations for state vehicles;
- 868 (ii) use requirements for state vehicles;
- 869 (iii) fleet safety and loss prevention programs;
- 870 (iv) preventative maintenance programs;
- 871 (v) procurement of state vehicles, including:
- 872 (A) vehicle standards;
- 873 (B) alternative fuel vehicle requirements;
- 874 (C) short-term lease programs;
- 875 (D) equipment installation; and
- 876 (E) warranty recovery programs;
- 877 (vi) fuel management programs;
- 878 (vii) cost management programs;
- 879 (viii) business and personal use practices, including commute standards;
- 880 (ix) cost recovery and billing procedures;
- 881 (x) disposal of state vehicles;
- 882 (xi) reassignment of state vehicles and reallocation of vehicles throughout the fleet;
- 883 (xii) standard use and rate structures for state vehicles; and
- 884 (xiii) insurance and risk management requirements;
- 885 (e) establish a parts inventory;
- 886 (f) create and administer a fuel dispensing services program that meets the
- 887 requirements of Subsection (2);
- 888 (g) emphasize customer service when dealing with agencies and agency employees;
- 889 (h) conduct an annual audit of all state vehicles for compliance with division
- 890 requirements;
- 891 (i) before charging a rate, fee, or other amount to an executive branch agency, or to a
- 892 subscriber of services other than an executive branch agency:
- 893 (i) submit the proposed rates, fees, and cost analysis to the Rate Committee established
- 894 in Section [63A-1-114](#); and
- 895 (ii) obtain the approval of the Legislature as required by Section [63J-1-410](#) or

896 63J-1-504; and

897 (j) conduct an annual market analysis of proposed rates and fees, which analysis shall
898 include a comparison of the division's rates and fees with the fees of other public or private
899 sector providers where comparable services and rates are reasonably available.

900 (2) The division shall operate a fuel dispensing services program in a manner that:

901 (a) reduces the risk of environmental damage and subsequent liability for leaks
902 involving state-owned underground storage tanks;

903 (b) eliminates fuel site duplication and reduces overall costs associated with fuel
904 dispensing;

905 (c) provides efficient fuel management and efficient and accurate accounting of
906 fuel-related expenses;

907 (d) where practicable, privatizes portions of the state's fuel dispensing system;

908 (e) provides central planning for fuel contingencies;

909 (f) establishes fuel dispensing sites that meet geographical distribution needs and that
910 reflect usage patterns;

911 (g) where practicable, uses alternative sources of energy; and

912 (h) provides safe, accessible fuel supplies in an emergency.

913 (3) The division shall:

914 (a) ensure that the state and each of its agencies comply with state and federal law and
915 state and federal rules and regulations governing underground storage tanks;

916 (b) coordinate the installation of new state-owned underground storage tanks and the
917 upgrading or retrofitting of existing underground storage tanks;

918 (c) by no later than June 30, 2025, ensure that an underground storage tank qualifies for
919 a rebate, provided under Subsection [19-6-410.5\(5\)\(d\)](#), of a portion of the environmental
920 assurance fee described in Subsection [19-6-410.5\(4\)](#), if the underground storage tank is owned
921 by:

922 (i) the state;

923 (ii) a state agency; or

924 (iii) a county, municipality, school district, local district, special service district, or
925 federal agency that has subscribed to the fuel dispensing service provided by the division under
926 Subsection (6)(b);

- 927 (d) report to the Natural Resources, Agriculture, and Environmental Quality
928 Appropriations Subcommittee by no later than:
- 929 (i) November 30, 2020, on the status of the requirements of Subsection (3)(c); and
930 (ii) November 30, 2024, on whether:
- 931 (A) the requirements of Subsection (3)(c) have been met; and
932 (B) additional funding is needed to accomplish the requirements of Subsection (3)(c);
933 and
- 934 (e) ensure that counties, municipalities, school districts, local districts, and special
935 service districts subscribing to services provided by the division sign a contract that:
- 936 (i) establishes the duties and responsibilities of the parties;
937 (ii) establishes the cost for the services; and
938 (iii) defines the liability of the parties.
- 939 (4) In fulfilling the requirements of Subsection (3)(c), the division may give priority to
940 underground storage tanks owned by the state or a state agency under Subsections (3)(c)(i) and
941 (ii).
- 942 (5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
943 the director of the Division of Fleet Operations:
- 944 (i) may make rules governing fuel dispensing; and
945 (ii) shall make rules establishing standards and procedures for purchasing the most
946 economically appropriate size and type of vehicle for the purposes and driving conditions for
947 which the vehicle will be used, including procedures for granting exceptions to the standards
948 by the executive director of the Department of Government Operations.
- 949 (b) Rules made under Subsection (5)(a)(ii):
- 950 (i) shall designate a standard vehicle size and type that shall be designated as the
951 statewide standard vehicle for fleet expansion and vehicle replacement;
- 952 (ii) may designate different standard vehicle size and types based on defined categories
953 of vehicle use;
- 954 (iii) may, when determining a standard vehicle size and type for a specific category of
955 vehicle use, consider the following factors affecting the vehicle class:
- 956 (A) size requirements;
957 (B) economic savings;

- 958 (C) fuel efficiency;
- 959 (D) driving and use requirements;
- 960 (E) safety;
- 961 (F) maintenance requirements;
- 962 (G) resale value; and
- 963 (H) the requirements of Section [63A-9-403](#); and
- 964 (iv) shall require agencies that request a vehicle size and type that is different from the
- 965 standard vehicle size and type to:
 - 966 (A) submit a written request for a nonstandard vehicle to the division that contains the
 - 967 following:
 - 968 (I) the make and model of the vehicle requested, including acceptable alternate vehicle
 - 969 makes and models as applicable;
 - 970 (II) the reasons justifying the need for a nonstandard vehicle size or type;
 - 971 (III) the date of the request; and
 - 972 (IV) the name and signature of the person making the request; and
 - 973 (B) obtain the division's written approval for the nonstandard vehicle.
- 974 (6) (a) (i) Each state agency and each higher education institution shall subscribe to the
- 975 fuel dispensing services provided by the division.
 - 976 (ii) A state agency may not provide or subscribe to any other fuel dispensing services,
 - 977 systems, or products other than those provided by the division.
- 978 (b) Counties, municipalities, school districts, local districts, special service districts,
- 979 and federal agencies may subscribe to the fuel dispensing services provided by the division if:
 - 980 (i) the county or municipal legislative body, the school district, or the local district or
 - 981 special service district board recommends that the county, municipality, school district, local
 - 982 district, or special service district subscribe to the fuel dispensing services of the division; and
 - 983 (ii) the division approves participation in the program by that government unit.
- 984 (7) The director, with the approval of the executive director, may delegate functions to
- 985 institutions of higher education, by contract or other means authorized by law, if:
 - 986 (a) the agency or institution of higher education has requested the authority;
 - 987 (b) in the judgment of the director, the state agency or institution has the necessary
 - 988 resources and skills to perform the delegated responsibilities; and

989 (c) the delegation of authority is in the best interest of the state and the function
990 delegated is accomplished according to provisions contained in law or rule.

991 Section 21. Section **63A-9-501** is amended to read:

992 **63A-9-501. Complaints about misuse or illegal operation of state vehicles --**
993 **Disposition.**

994 (1) The division shall refer complaints from the public about misuse or illegal
995 operation of state vehicles to the agency that is the owner or lessor of the vehicle.

996 (2) Each agency head or ~~[his]~~ the agency head's designee shall investigate all
997 complaints about misuse or illegal operation of state vehicles and shall discipline each
998 employee that is found to have misused or illegally operated a vehicle by following the
999 procedures ~~[set forth]~~ described in the rules ~~[adopted]~~ made by the Division of Human
1000 Resource Management, in accordance with Title 63G, Chapter 3, Utah Administrative
1001 Rulemaking Act, as authorized by Section [63A-17-306](#).

1002 (3) (a) Each agency shall report the findings of each investigation conducted as well as
1003 any action taken as a result of the investigation to the directors of the Divisions of Fleet
1004 Operations and Risk Management.

1005 (b) Misuse or illegal operation of state vehicles may result in suspension or revocation
1006 of state vehicle driving privileges as governed in rule.

1007 Section 22. Section **63A-12-101** is amended to read:

1008 **63A-12-101. Division of Archives and Records Service created -- Duties.**

1009 (1) There is created the Division of Archives and Records Service within the
1010 department.

1011 (2) The state archives shall:

1012 (a) administer the state's archives and records management programs, including storage
1013 of records, central ~~[microphotography]~~ reformatting programs, and quality control;

1014 (b) apply fair, efficient, and economical management methods to the collection,
1015 creation, use, maintenance, retention, preservation, disclosure, and disposal of records and
1016 documents;

1017 (c) establish standards, procedures, and techniques for the effective management and
1018 physical care of records;

1019 (d) conduct surveys of office operations and recommend improvements in current

1020 records management practices, including the use of space, equipment, automation, and supplies
1021 used in creating, maintaining, storing, and servicing records;

1022 (e) establish standards for the preparation of schedules providing for the retention of
1023 records of continuing value and for the prompt and orderly disposal of state records no longer
1024 possessing sufficient administrative, historical, legal, or fiscal value to warrant further
1025 retention;

1026 (f) establish, maintain, and operate centralized [~~microphotography~~] reformatting lab
1027 facilities and quality control for the state;

1028 (g) provide staff and support services to the Records Management Committee created
1029 in Section 63A-12-112 and the State Records Committee created in Section 63G-2-501;

1030 (h) develop training programs to assist records officers and other interested officers and
1031 employees of governmental entities to administer this chapter and Title 63G, Chapter 2,
1032 Government Records Access and Management Act;

1033 (i) provide access to public records deposited in the archives;

1034 (j) administer and maintain the Utah Public Notice Website established under Section
1035 63A-16-601;

1036 (k) provide assistance to any governmental entity in administering this chapter and
1037 Title 63G, Chapter 2, Government Records Access and Management Act;

1038 (l) prepare forms for use by all governmental entities for a person requesting access to
1039 a record; and

1040 (m) if the department operates the Division of Archives and Records Service as an
1041 internal service fund agency in accordance with Section 63A-1-109.5, submit to the Rate
1042 Committee established in Section 63A-1-114:

1043 (i) the proposed rate [~~and fee~~] schedule as required by Section 63A-1-114; and

1044 (ii) other information or analysis requested by the Rate Committee.

1045 (3) The state archives may:

1046 (a) establish a report and directives management program; and

1047 (b) establish a forms management program.

1048 (4) The executive director may direct the state archives to administer other functions or
1049 services consistent with this chapter and Title 63G, Chapter 2, Government Records Access
1050 and Management Act.

1051 Section 23. Section **63A-12-104** is amended to read:

1052 **63A-12-104. Rulemaking authority.**

1053 (1) The [~~executive director of the department, with the recommendation of the~~] state
1054 archivist, may make rules [~~as provided by~~], in accordance with Title 63G, Chapter 3, Utah
1055 Administrative Rulemaking Act, to implement provisions of this chapter and Title 63G,
1056 Chapter 2, Government Records Access and Management Act, dealing with procedures for the
1057 collection, storage, designation, classification, access, mediation for records access, and
1058 management of records.

1059 (2) A governmental entity that includes divisions, boards, departments, committees,
1060 commissions, or other subparts that fall within the definition of a governmental entity under
1061 this chapter, may, by rule, specify at which level the requirements specified in this chapter shall
1062 be undertaken.

1063 Section 24. Section **63A-16-102** is amended to read:

1064 **63A-16-102. Definitions.**

1065 As used in this chapter:

1066 (1) "Chief information officer" means the chief information officer appointed under
1067 Section [63A-16-201](#).

1068 (2) "Data center" means a centralized repository for the storage, management, and
1069 dissemination of data.

1070 (3) "Division" means the Division of Technology Services.

1071 (4) "Enterprise architecture" means:

1072 (a) information technology assets and functions that can be applied across state
1073 government[~~;~~ and], including:

1074 (i) mainframes, servers, desktop devices, peripherals, and other computing devices;

1075 (ii) networks;

1076 (iii) enterprise-wide applications;

1077 (iv) maintenance and help desk functions for common hardware and applications;

1078 (v) standards for other computing devices, operating systems, common applications,

1079 and software; and

1080 (vi) master contracts that are available for use by agencies for various systems,

1081 including operating systems, databases, enterprise resource planning and customer relationship

1082 management software, application development services, and enterprise integration; and

1083 (b) support for information technology that can be applied across state government,
1084 including:

1085 (i) technical support;

1086 (ii) master software licenses; and

1087 (iii) hardware and software standards.

1088 (5) (a) "Executive branch agency" means an agency or administrative subunit of state
1089 government.

1090 (b) "Executive branch agency" does not include:

1091 (i) the legislative branch;

1092 (ii) the judicial branch;

1093 (iii) the State Board of Education;

1094 (iv) the Utah Board of Higher Education;

1095 (v) institutions of higher education;

1096 (vi) independent entities as defined in Section [63E-1-102](#); or

1097 (vii) the following elective constitutional offices of the executive department:

1098 (A) the state auditor;

1099 (B) the state treasurer; and

1100 (C) the attorney general.

1101 (6) "Executive branch strategic plan" means the executive branch strategic plan created
1102 under Section [63A-16-202](#).

1103 (7) "Individual with a disability" means an individual with a condition that meets the
1104 definition of "disability" in 42 U.S.C. Sec. 12102.

1105 (8) "Information technology" means all computerized and auxiliary automated
1106 information handling, including:

1107 (a) systems design and analysis;

1108 (b) acquisition, storage, and conversion of data;

1109 (c) computer programming;

1110 (d) information storage and retrieval;

1111 (e) voice, video, and data communications;

1112 (f) requisite systems controls;

- 1113 (g) simulation; and
1114 (h) all related interactions between people and machines.
1115 (9) "State information architecture" means a logically consistent set of principles,
1116 policies, and standards that guide the engineering of state government's information technology
1117 and infrastructure in a way that ensures alignment with state government's business and service
1118 needs.

1119 Section 25. Section **63A-16-104** is amended to read:

1120 **63A-16-104. Duties of division.**

1121 The division shall:

1122 (1) lead state executive branch agency efforts to establish and reengineer the state's
1123 information technology architecture with the goal of coordinating central and individual agency
1124 information technology in a manner that:

- 1125 (a) ensures compliance with the executive branch agency strategic plan; and
1126 (b) ensures that cost-effective, efficient information and communication systems and
1127 resources are being used by agencies to:

- 1128 (i) reduce data, hardware, and software redundancy;
1129 (ii) improve system interoperability and data accessibility between agencies; and
1130 (iii) meet the agency's and user's business and service needs;

1131 (2) coordinate an executive branch strategic plan for all agencies;

1132 (3) develop and implement processes to replicate information technology best practices
1133 and standards throughout the executive branch;

1134 (4) at least once every odd-numbered year:

1135 (a) evaluate the adequacy of the division's and the executive branch agencies' data and
1136 information technology system security standards through an independent third party
1137 assessment; and

1138 (b) communicate the results of the independent third party assessment to the
1139 appropriate executive branch agencies and to the president of the Senate and the speaker of the
1140 House of Representatives;

1141 (5) oversee the expanded use and implementation of project and contract management
1142 principles as they relate to information technology projects within the executive branch;

1143 (6) serve as general contractor between the state's information technology users and

1144 private sector providers of information technology products and services;

1145 (7) work toward building stronger partnering relationships with providers;

1146 (8) develop service level agreements with executive branch departments and agencies

1147 to ensure quality products and services are delivered on schedule and within budget;

1148 (9) develop standards for application development including a standard methodology

1149 and cost-benefit analysis that all agencies shall utilize for application development activities;

1150 (10) determine and implement statewide efforts to standardize data elements;

1151 (11) coordinate with executive branch agencies to provide basic website standards for

1152 agencies that address common design standards and navigation standards, including:

1153 (a) accessibility for individuals with disabilities in accordance with:

1154 (i) the standards of 29 U.S.C. Sec. 794d; and

1155 (ii) Section [63A-16-209](#);

1156 (b) consistency with standardized government security standards;

1157 (c) designing around user needs with data-driven analysis influencing management and

1158 development decisions, using qualitative and quantitative data to determine user goals, needs,

1159 and behaviors, and continual testing of the website, web-based form, web-based application, or

1160 digital service to ensure that user needs are addressed;

1161 (d) providing users of the website, web-based form, web-based application, or digital

1162 service with the option for a more customized digital experience that allows users to complete

1163 digital transactions in an efficient and accurate manner; and

1164 (e) full functionality and usability on common mobile devices;

1165 (12) consider, when making a purchase for an information system, cloud computing

1166 options, including any security benefits, privacy, data retention risks, and cost savings

1167 associated with cloud computing options;

1168 (13) develop systems and methodologies to review, evaluate, and prioritize existing

1169 information technology projects within the executive branch and report to the governor and the

1170 [~~Public Utilities, Energy, and Technology~~] Government Operations Interim Committee in

1171 accordance with Section [63A-16-201](#) on a semiannual basis regarding the status of information

1172 technology projects;

1173 (14) assist the Governor's Office of Planning and Budget with the development of

1174 information technology budgets for agencies; [~~and~~]

- 1175 (15) ensure that any training or certification required of a public official or public
1176 employee, as those terms are defined in Section [63G-22-102](#), complies with Title 63G, Chapter
1177 22, State Training and Certification Requirements, if the training or certification is required:
- 1178 (a) under this chapter;
 - 1179 (b) by the department; or
 - 1180 (c) by the division[-];
- 1181 (16) provide support to executive branch agencies for the information technology
1182 assets and functions that are unique to the agency and are mission critical functions of the
1183 agency;
- 1184 (17) provide in-house information technology staff support to executive branch
1185 agencies;
- 1186 (18) establish a committee composed of agency user groups to coordinate division
1187 services with agency needs;
- 1188 (19) assist executive branch agencies in complying with the requirements of any rule
1189 made by the chief information officer;
- 1190 (20) develop and implement an effective enterprise architecture governance model for
1191 the executive branch;
- 1192 (21) provide oversight of information technology projects that impact statewide
1193 information technology services, assets, or functions of state government to:
- 1194 (a) control costs;
 - 1195 (b) ensure business value to a project;
 - 1196 (c) maximize resources;
 - 1197 (d) ensure the uniform application of best practices; and
 - 1198 (e) avoid duplication of resources;
- 1199 (22) develop a method of accountability to agencies for services provided by the
1200 department through service agreements with the agencies;
- 1201 (23) serve as a project manager for enterprise architecture, including management of
1202 applications, standards, and procurement of enterprise architecture;
- 1203 (24) coordinate the development and implementation of advanced state
1204 telecommunication systems;
- 1205 (25) provide services, including technical assistance;

- 1206 (a) to executive branch agencies and subscribers to the services; and
- 1207 (b) related to information technology or telecommunications;
- 1208 (26) establish telecommunication system specifications and standards for use by:
- 1209 (a) one or more executive branch agencies; or
- 1210 (b) one or more entities that subscribe to the telecommunication systems in accordance
- 1211 with Section [63A-16-303](#);
- 1212 (27) coordinate state telecommunication planning, in cooperation with:
- 1213 (a) state telecommunication users;
- 1214 (b) executive branch agencies; and
- 1215 (c) other subscribers to the state's telecommunication systems;
- 1216 (28) cooperate with the federal government, other state entities, counties, and
- 1217 municipalities in the development, implementation, and maintenance of:
- 1218 (a) (i) governmental information technology; or
- 1219 (ii) governmental telecommunication systems; and
- 1220 (b) (i) as part of a cooperative organization; or
- 1221 (ii) through means other than a cooperative organization;
- 1222 (29) establish, operate, manage, and maintain:
- 1223 (a) one or more state data centers; and
- 1224 (b) one or more regional computer centers;
- 1225 (30) design, implement, and manage all state-owned, leased, or rented land, mobile, or
- 1226 radio telecommunication systems that are used in the delivery of services for state government
- 1227 or the state's political subdivisions;
- 1228 (31) in accordance with the executive branch strategic plan, implement minimum
- 1229 standards to be used by the division for purposes of compatibility of procedures, programming
- 1230 languages, codes, and media that facilitate the exchange of information within and among
- 1231 telecommunication systems;
- 1232 (32) establish standards for the information technology needs of a collection of
- 1233 executive branch agencies or programs that share common characteristics relative to the types
- 1234 of stakeholders the agencies or programs serve, including:
- 1235 (a) project management;
- 1236 (b) application development; and

- 1237 (c) procurement;
1238 (33) provide oversight of information technology standards that impact multiple
1239 executive branch agency information technology services, assets, or functions to:
1240 (a) control costs;
1241 (b) ensure business value to a project;
1242 (c) maximize resources;
1243 (d) ensure the uniform application of best practices; and
1244 (e) avoid duplication of resources; and
1245 (34) establish a system of accountability to user agencies through the use of service
1246 agreements.

1247 Section 26. Section **63A-16-105** is amended to read:

1248 **63A-16-105. Director -- Authority.**

- 1249 (1) The executive director shall, with the approval of the governor, appoint the
1250 director.
- 1251 (2) The director:
- 1252 (a) shall exercise all powers given to, and perform all duties imposed on, the division;
1253 (b) has administrative jurisdiction over the division and each office within the division;
1254 (c) may make changes in division personnel and service functions under the director's
1255 administrative jurisdiction; and
1256 (d) may authorize a designee to perform appropriate responsibilities.
- 1257 (3) The director may, to facilitate division management, establish offices and bureaus
1258 to perform division functions.
- 1259 (4) (a) The director may hire employees in the division and offices of the division as
1260 permitted by division resources.
- 1261 (b) Except as provided in Subsection (5), each employee of the division is exempt from
1262 career service or classified service status as provided in Section [63A-17-301](#).
- 1263 (5) (a) ~~Am~~ Unless the employee voluntarily converted to an exempt position described
1264 in Section [63A-17-301](#), an employee of an executive branch agency who was a career service
1265 employee as of July 1, 2005, who was transferred to the division at the time it was newly
1266 created as the Department of Technology Services continues in the employee's career service
1267 status during the employee's service to the division if the duties of the position in the division

1268 are substantially similar to those in the employee's previous position.

1269 (b) A career service employee transferred under the provisions of Subsection (5)(a),
1270 whose duties or responsibilities subsequently change, may not be converted to exempt status
1271 without the review process required by Subsection 63A-17-301(3).

1272 Section 27. Section 63A-16-201 is amended to read:

1273 **63A-16-201. Chief information officer -- Appointment -- Powers -- Reporting.**

1274 (1) The director of the division shall serve as the state's chief information officer.

1275 (2) The chief information officer shall:

1276 (a) advise the governor on information technology policy; and

1277 (b) perform those duties given the chief information officer by statute.

1278 (3) (a) The chief information officer shall report annually to:

1279 (i) the governor; and

1280 (ii) the [~~Public Utilities, Energy, and Technology~~] Government Operations Interim
1281 Committee.

1282 (b) The report required under Subsection (3)(a) shall:

1283 (i) summarize the state's current and projected use of information technology;

1284 (ii) summarize the executive branch strategic plan including a description of major
1285 changes in the executive branch strategic plan;

1286 (iii) provide a brief description of each state agency's information technology plan;

1287 (iv) include the status of information technology projects described in Subsection
1288 63A-16-104(11);

1289 (v) include the performance report described in Section 63A-16-211; and

1290 (vi) include the expenditure of the funds provided for electronic technology,
1291 equipment, and hardware.

1292 Section 28. Section 63A-16-202 is amended to read:

1293 **63A-16-202. Executive branch information technology strategic plan.**

1294 (1) In accordance with this section, the chief information officer shall prepare an
1295 executive branch information technology strategic plan:

1296 (a) that complies with this chapter; and

1297 (b) that includes:

1298 (i) a strategic plan for the:

1299 (A) interchange of information related to information technology between executive
1300 branch agencies;

1301 (B) coordination between executive branch agencies in the development and
1302 maintenance of information technology and information systems, including the coordination of
1303 agency information technology plans described in Section 63A-16-203; and

1304 (C) protection of the privacy of individuals who use state information technology or
1305 information systems, including the implementation of industry best practices for data and
1306 system security;

1307 (ii) priorities for the development and implementation of information technology or
1308 information systems including priorities determined on the basis of:

1309 (A) the importance of the information technology or information system; and

1310 (B) the time sequencing of the information technology or information system; and

1311 (iii) maximizing the use of existing state information technology resources.

1312 (2) In the development of the executive branch strategic plan, the chief information
1313 officer shall consult with all cabinet level officials.

1314 (3) (a) Unless withdrawn by the chief information officer or the governor in accordance
1315 with Subsection (3)(b), the executive branch strategic plan takes effect 30 days after the day on
1316 which the executive branch strategic plan is submitted to:

1317 (i) the governor; and

1318 (ii) the [~~Public Utilities, Energy, and Technology~~] Government Operations Interim
1319 Committee.

1320 (b) The chief information officer or the governor may withdraw the executive branch
1321 strategic plan submitted under Subsection (3)(a) if the governor or chief information officer
1322 determines that the executive branch strategic plan:

1323 (i) should be modified; or

1324 (ii) for any other reason should not take effect.

1325 (c) The [~~Public Utilities, Energy, and Technology~~] Government Operations Interim
1326 Committee may make recommendations to the governor and to the chief information officer if
1327 the commission determines that the executive branch strategic plan should be modified or for
1328 any other reason should not take effect.

1329 (d) Modifications adopted by the chief information officer shall be resubmitted to the

1330 governor and the [~~Public Utilities, Energy, and Technology~~] Government Operations Interim
1331 Committee for their review or approval as provided in Subsections (3)(a) and (b).

1332 (4) (a) The chief information officer shall annually, on or before January 1, modify the
1333 executive branch information technology strategic plan to incorporate security standards that:

1334 (i) are identified as industry best practices in accordance with Subsections
1335 ~~63A-16-104~~(3) and (4); and

1336 (ii) can be implemented within the budget of the department or the executive branch
1337 agencies.

1338 (b) The chief information officer shall inform the speaker of the House of
1339 Representatives and the president of the Senate on or before January 1 of each year if best
1340 practices identified in Subsection (4)(a)(i) are not adopted due to budget issues considered
1341 under Subsection (4)(a)(ii).

1342 (5) Each executive branch agency shall implement the executive branch strategic plan
1343 by adopting an agency information technology plan in accordance with Section ~~63A-16-203~~.

1344 Section 29. Section ~~63A-16-203~~ is amended to read:

1345 **~~63A-16-203. Agency information technology plans.~~**

1346 (1) (a) On or before July 1 each year, each executive branch agency shall submit an
1347 agency information technology plan to the chief information officer at the department level,
1348 unless the governor or the chief information officer request an information technology plan be
1349 submitted by a subunit of a department, or by an executive branch agency other than a
1350 department.

1351 (b) The information technology plans required by this section shall be in the form and
1352 level of detail required by the chief information officer, by administrative rule [~~adopted in~~
1353 ~~accordance with~~] under Section ~~63A-16-205~~, and shall include, at least:

1354 (i) the information technology objectives of the agency;

1355 (ii) any performance measures used by the agency for implementing the agency's
1356 information technology objectives;

1357 (iii) any planned expenditures related to information technology;

1358 (iv) the agency's need for appropriations for information technology;

1359 (v) how the agency's development of information technology coordinates with other
1360 state and local governmental entities;

1361 (vi) any efforts the agency has taken to develop public and private partnerships to
1362 accomplish the information technology objectives of the agency;

1363 (vii) the efforts the executive branch agency has taken to conduct transactions
1364 electronically in compliance with Section 46-4-503; and

1365 (viii) the executive branch agency's plan for the timing and method of verifying the
1366 department's security standards, if an agency intends to verify the department's security
1367 standards for the data that the agency maintains or transmits through the department's servers.

1368 (2) (a) Except as provided in Subsection (2)(b), an agency information technology plan
1369 described in Subsection (1) shall comply with the executive branch strategic plan established in
1370 accordance with Section 63A-16-202.

1371 (b) If the executive branch agency submitting the agency information technology plan
1372 justifies the need to depart from the executive branch strategic plan, an agency information
1373 technology plan may depart from the executive branch strategic plan to the extent approved by
1374 the chief information officer.

1375 (3) The chief information officer shall review each agency plan to determine:

1376 (a) (i) whether the agency plan complies with the executive branch strategic plan and
1377 state information architecture; or

1378 (ii) to the extent that the agency plan does not comply with the executive branch
1379 strategic plan or state information architecture, whether the executive branch entity is justified
1380 in departing from the executive branch strategic plan, or state information architecture; and

1381 (b) whether the agency plan meets the information technology and other needs of:

1382 (i) the executive branch agency submitting the plan; and

1383 (ii) the state.

1384 (4) After the chief information officer conducts the review described in Subsection (3)
1385 of an agency information technology plan, the chief information officer may:

1386 (a) approve the agency information technology plan;

1387 (b) disapprove the agency information technology plan; or

1388 (c) recommend modifications to the agency information technology plan.

1389 (5) An executive branch agency or the department may not submit a request for
1390 appropriation related to information technology or an information technology system to the
1391 governor in accordance with Section 63J-1-201 until after the executive branch agency's

1392 information technology plan is approved by the chief information officer.

1393 Section 30. Section **63A-16-205** is amended to read:

1394 **63A-16-205. Rulemaking -- Policies.**

1395 (1) (a) Except as provided in Subsection (2), the chief information officer shall, by rule
1396 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

1397 (i) provide standards that impose requirements on executive branch agencies that:

1398 (A) are related to the security of the statewide area network; and

1399 (B) establish standards for when an agency must obtain approval before obtaining

1400 items listed in Subsection [63A-16-204](#)(1);

1401 (ii) specify the detail and format required in an agency information technology plan

1402 submitted in accordance with Section [63A-16-203](#);

1403 (iii) provide for standards related to the privacy policies of websites operated by or on

1404 behalf of an executive branch agency;

1405 (iv) provide for the acquisition, licensing, and sale of computer software;

1406 (v) specify the requirements for the project plan and business case analysis required by

1407 Section [63A-16-204](#);

1408 (vi) provide for project oversight of agency technology projects when required by

1409 Section [63A-16-204](#);

1410 (vii) establish, in accordance with Subsection [63A-16-204](#)(2), the implementation of

1411 the needs assessment for information technology purchases;

1412 (viii) establish telecommunications standards and specifications in accordance with

1413 [~~Section [63A-16-403](#)~~] Subsection [63A-16-104](#)(26); and

1414 (ix) establish standards for accessibility of information technology by individuals with

1415 disabilities in accordance with Section [63A-16-209](#).

1416 (b) The rulemaking authority granted by this Subsection (1) is in addition to any other

1417 rulemaking authority granted under this chapter.

1418 (2) (a) Notwithstanding Title 63G, Chapter 3, Utah Administrative Rulemaking Act,

1419 and subject to Subsection (2)(b), the chief information officer may adopt a policy that outlines

1420 procedures to be followed by the chief information officer in facilitating the implementation of

1421 this title by executive branch agencies if the policy:

1422 (i) is consistent with the executive branch strategic plan; and

1423 (ii) is not required to be made by rule under Subsection (1) or Section 63G-3-201.

1424 (b) (i) A policy adopted by the chief information officer under Subsection (2)(a) may
1425 not take effect until 30 days after the day on which the chief information officer submits the
1426 policy to:

1427 (A) the governor; and

1428 (B) all cabinet level officials.

1429 (ii) During the 30-day period described in Subsection (2)(b)(i), cabinet level officials
1430 may review and comment on a policy submitted under Subsection (2)(b)(i).

1431 (3) (a) Notwithstanding Subsection (1) or (2) or Title 63G, Chapter 3, Utah
1432 Administrative Rulemaking Act, without following the procedures of Subsection (1) or (2), the
1433 chief information officer may adopt a security procedure to be followed by executive branch
1434 agencies to protect the statewide area network if:

1435 (i) broad communication of the security procedure would create a significant potential
1436 for increasing the vulnerability of the statewide area network to breach or attack; and

1437 (ii) after consultation with the chief information officer, the governor agrees that broad
1438 communication of the security procedure would create a significant potential increase in the
1439 vulnerability of the statewide area network to breach or attack.

1440 (b) A security procedure described in Subsection (3)(a) is classified as a protected
1441 record under Title 63G, Chapter 2, Government Records Access and Management Act.

1442 (c) The chief information officer shall provide a copy of the security procedure as a
1443 protected record to:

1444 (i) the chief justice of the Utah Supreme Court for the judicial branch;

1445 (ii) the speaker of the House of Representatives and the president of the Senate for the
1446 legislative branch;

1447 (iii) the chair of the Utah Board of Higher Education; and

1448 (iv) the chair of the State Board of Education.

1449 Section 31. Section 63A-16-208 is amended to read:

1450 **63A-16-208. Delegation of division staff to executive branch agencies --**

1451 **Prohibition against executive branch agency information technology staff.**

1452 (1) (a) The chief information officer shall assign division staff to serve an agency
1453 in-house if the chief information officer and the executive branch agency director jointly

1454 determine it is appropriate to provide information technology services to:

- 1455 (i) the agency's unique mission-critical functions and applications;
- 1456 (ii) the agency's participation in and use of statewide enterprise architecture; and
- 1457 (iii) the agency's use of coordinated technology services with other agencies that share
- 1458 similar characteristics with the agency.

1459 (b) (i) An agency may request the chief information officer to assign in-house staff
1460 support from the division.

1461 (ii) The chief information officer shall respond to the agency's request for in-house
1462 staff support in accordance with Subsection (1)(a).

1463 (c) The division shall enter into service agreements with an agency when division staff
1464 is assigned in-house to the agency under the provisions of this section.

1465 (d) An agency that receives in-house staff support assigned from the division under the
1466 provision of this section is responsible for paying the rates charged by the division for that staff
1467 as established under Section [63A-16-301](#).

1468 (2) (a) An executive branch agency may not create a full-time equivalent position or
1469 part-time position, or request an appropriation to fund a full-time equivalent position or
1470 part-time position under the provisions of Section [63J-1-201](#) for the purpose of providing
1471 information technology services to the agency unless:

1472 (i) the chief information officer has approved a delegation under Section [63A-16-207](#);
1473 and

1474 (ii) the division conducts an audit ~~[under]~~ in relation to Section [[63A-16-213](#)]
1475 [63A-16-102](#) and finds that the delegation of information technology services to the agency
1476 meets the requirements of Section [63A-16-207](#).

1477 (b) The prohibition against a request for appropriation under Subsection (2)(a) does not
1478 apply to a request for appropriation needed to pay rates imposed under Subsection (1)(d).

1479 Section 32. Section **63A-16-211** is amended to read:

1480 **63A-16-211. Report to the Legislature.**

1481 The division shall, in accordance with Section [63F-16-201](#), before November 1 each
1482 year, report to the [~~Public Utilities, Energy, and Technology~~] Government Operations Interim
1483 Committee on:

1484 (1) performance measures that the division uses to assess the division's effectiveness in

1485 performing the division's duties under this part; and

1486 (2) the division's performance, evaluated in accordance with the performance measures
1487 described in Subsection (1).

1488 Section 33. Section **63A-16-301** is amended to read:

1489 **63A-16-301. Cost based services -- Rates -- Submission to rate committee.**

1490 (1) The chief information officer shall:

1491 (a) at the lowest practical cost, manage the delivery of efficient and cost-effective
1492 information technology and telecommunication services for:

1493 (i) all executive branch agencies; and

1494 (ii) entities that subscribe to the services in accordance with Section **63A-16-303**; and

1495 (b) provide priority service to public safety agencies.

1496 (2) (a) In accordance with this Subsection (2), the chief information officer shall
1497 prescribe a schedule of [~~fees~~] rates for all services rendered by the division to:

1498 (i) an executive branch entity; or

1499 (ii) an entity that subscribes to services rendered by the division in accordance with
1500 Section **63A-16-303**.

1501 (b) Each [~~fee~~] rate included in the schedule of [~~fees~~] rates required by Subsection
1502 (2)(a):

1503 (i) shall be equitable;

1504 (ii) should be based upon a zero based, full cost accounting of activities necessary to
1505 provide each service for which a [~~fee~~] rate is established; and

1506 (iii) for each service multiplied by the projected consumption of the service recovers
1507 no more or less than the full cost of each service.

1508 (c) Before charging a [~~fee~~] rate for its services to an executive branch agency or to a
1509 subscriber of services other than an executive branch agency, the chief information officer
1510 shall:

1511 (i) submit the proposed rates[~~, fees,~~] and cost analysis to the Rate Committee
1512 established in Section **63A-1-114**; and

1513 (ii) obtain the approval of the Legislature as required by Section **63J-1-410**.

1514 (d) The chief information officer shall periodically conduct a market analysis of
1515 proposed rates [~~and fees~~], which analysis shall include a comparison of the division's rates with

1516 the ~~[fees]~~ rates of other public or private sector providers where comparable services and rates
1517 are reasonably available.

1518 Section 34. Section **63A-16-501** is amended to read:

1519 **63A-16-501. Definitions.**

1520 As used in this part:

1521 (1) "Center" means the Utah Geospatial Resource Center created in Section

1522 [63A-16-505](#).

1523 (2) "Database" means the State Geographic Information Database created in Section

1524 [63A-16-506](#).

1525 (3) "Geographic Information System" or "GIS" means a computer driven data
1526 integration and map production system that interrelates disparate layers of data to specific
1527 geographic locations.

1528 ~~[(4) "Office" means the Office of Integrated Technology, created in Section~~

1529 [63A-16-502](#).]

1530 ~~[(5)]~~ (4) "State Geographic Information Database" means the database created in

1531 Section [63A-16-506](#).

1532 ~~[(6)]~~ (5) "Statewide Global Positioning Reference Network" or "network" means the
1533 network created in Section [63A-16-508](#).

1534 Section 35. Section **63A-16-504** is amended to read:

1535 **63A-16-504. Information technology plan.**

1536 (1) In accordance with this section, the ~~[office]~~ division shall submit an information
1537 technology plan to the chief information officer.

1538 (2) The information technology plan submitted by the ~~[office]~~ division under this
1539 section shall include:

1540 (a) the information required by Section [63A-16-202](#);

1541 (b) a list of the services the ~~[office]~~ division offers or plans to offer; and

1542 (c) a description of the performance measures used by the ~~[office]~~ division to measure
1543 the quality of the services described in Subsection (2)(b).

1544 (3) (a) In submitting the information technology plan under this section, the ~~[office]~~
1545 division shall comply with Section [63A-16-203](#).

1546 (b) The information technology plan submitted by the ~~[office]~~ division under this

1547 section is subject to the approval of the chief information officer as provided in Section
1548 [63A-16-203](#).

1549 Section 36. Section **63A-16-505** is amended to read:

1550 **63A-16-505. Utah Geospatial Resource Center.**

1551 (1) There is created the Utah Geospatial Resource Center as part of the ~~[office]~~
1552 division.

1553 (2) The center shall:

1554 (a) provide geographic information system services to state agencies under rules
1555 ~~[adopted in accordance with Section [63A-16-503](#)]~~ made under Section [63A-16-104](#) and
1556 policies established by the office;

1557 (b) provide geographic information system services to federal government, local
1558 political subdivisions, and private persons under rules and policies established by the office;

1559 (c) manage the State Geographic Information Database; and

1560 (d) establish standard format, lineage, and other requirements for the database.

1561 (3) (a) There is created a position of surveyor within the center.

1562 (b) The surveyor under this Subsection (3) shall:

1563 (i) be licensed as a professional land surveyor under Title 58, Chapter 22, Professional
1564 Engineers and Professional Land Surveyors Licensing Act;

1565 (ii) provide technical support to the office of lieutenant governor in the lieutenant
1566 governor's evaluation under Section [67-1a-6.5](#) of a proposed boundary action, as defined in
1567 Section [17-23-20](#);

1568 (iii) as requested by a county surveyor, provide technical assistance to the county
1569 surveyor with respect to the county surveyor's responsibilities under Section [17-23-20](#);

1570 (iv) fulfill the duties described in Section [17-50-105](#), if engaged to do so as provided in
1571 that section;

1572 (v) assist the State Tax Commission in processing and quality assurance of boundary
1573 descriptions or maps into digital format for inclusion in the State Geographic Information
1574 Database;

1575 (vi) coordinate with county recorders and surveyors to create a statewide parcel layer in
1576 the State Geographic Information Database containing parcel boundary, parcel identifier, parcel
1577 address, owner type, and county recorder contact information; and

1578 (vii) facilitate and integrate the collection efforts of local government and federal
1579 agencies for data collection to densify and enhance the statewide Public Land Survey System
1580 reference network in the State Geographic Information Database.

1581 (4) The office may:

1582 (a) make rules and establish policies to govern the center and the center's operations;
1583 and

1584 (b) set fees for the services provided by the center.

1585 (5) The state may not sell information obtained from counties under Subsection

1586 (3)(b)(v).

1587 Section 37. Section **63A-16-701** is amended to read:

1588 **63A-16-701. Data Security Management Council -- Membership -- Duties.**

1589 (1) There is created the Data Security Management Council comprising eight members
1590 as follows:

1591 (a) the chief information officer appointed under Section [63A-16-201](#), or the chief
1592 information officer's designee;

1593 (b) one individual appointed by the governor;

1594 (c) one individual appointed by the speaker of the House of Representatives and the
1595 president of the Senate; and

1596 (d) the highest ranking information technology official, or the highest ranking
1597 information technology official's designee, from each of:

1598 (i) the Judicial Council;

1599 (ii) the Utah Board of Higher Education;

1600 (iii) the State Board of Education;

1601 (iv) the State Tax Commission; and

1602 (v) the Office of the Attorney General.

1603 (2) The council shall elect a chair of the council by majority vote.

1604 (3) (a) A majority of the members of the council constitutes a quorum.

1605 (b) Action by a majority of a quorum of the council constitutes an action of the council.

1606 (4) The Division of Technology Services shall provide staff to the council.

1607 (5) The council shall meet quarterly, or as often as necessary, to:

1608 (a) review existing state government data security policies;

- 1609 (b) assess ongoing risks to state government information technology;
- 1610 (c) create a method to notify state and local government entities of new risks;
- 1611 (d) coordinate data breach simulation exercises with state and local government
- 1612 entities; and
- 1613 (e) develop data security best practice recommendations for state government that
- 1614 include recommendations regarding:
- 1615 (i) hiring and training a chief information security officer for each government entity;
- 1616 (ii) continuous risk monitoring;
- 1617 (iii) password management;
- 1618 (iv) using the latest technology to identify and respond to vulnerabilities;
- 1619 (v) protecting data in new and old systems; and
- 1620 (vi) best procurement practices.
- 1621 (6) A member who is not a member of the Legislature may not receive compensation
- 1622 or benefits for the member's service but may receive per diem and travel expenses as provided
- 1623 in:
- 1624 (a) Section [63A-3-106](#);
- 1625 (b) Section [63A-3-107](#); and
- 1626 (c) rules made by the Division of Finance under Sections [63A-3-106](#) and [63A-3-107](#).
- 1627 (7) The Data Security Management Council may, in accordance with Section
- 1628 [52-4-204](#), close to the public a meeting to discuss an item described in Subsection (5).
- 1629 Section 38. Section **63A-16-702** is amended to read:
- 1630 **63A-16-702. Data Security Management Council -- Report to Legislature --**
- 1631 **Recommendations.**
- 1632 (1) The council chair or the council chair's designee shall report annually no later than
- 1633 October 1 of each year to the [~~Public Utilities, Energy, and Technology~~] Government
- 1634 Operations Interim Committee.
- 1635 (2) The council's annual report shall contain:
- 1636 (a) a summary of topics the council studied during the year;
- 1637 (b) best practice recommendations for state government; and
- 1638 (c) recommendations for implementing the council's best practice recommendations.
- 1639 Section 39. Section **63A-16-804** is amended to read:

1640 **63A-16-804. Report.**

1641 (1) The division shall report to the [~~Public Utilities, Energy, and Technology~~]
1642 Government Operations Interim Committee before November 30 of each year regarding:

1643 (a) the progress the division has made in developing the single sign-on business portal
1644 and the single sign-on citizen portal and, once that development is complete, regarding the
1645 operation of the single sign-on business portal and the single sign-on citizen portal;

1646 (b) the division's goals and plan for each of the next five years to fulfill the division's
1647 responsibilities described in this part; and

1648 (c) whether the division recommends any change to the single sign-on fee being
1649 charged under Section 13-1-2.

1650 (2) The [~~Public Utilities, Energy, and Technology~~] Government Operations Interim
1651 Committee shall annually:

1652 (a) review the single sign-on fee being charged under Section 13-1-2;

1653 (b) determine whether the revenue from the single sign-on fee is adequate for designing
1654 and developing and then, once developed, operating and maintaining the single sign-on web
1655 portal; and

1656 (c) make any recommendation to the Legislature that the committee considers
1657 appropriate concerning:

1658 (i) the single sign-on fee; and

1659 (ii) the development or operation of the single sign-on business portal and the single
1660 sign-on citizen portal.

1661 Section 40. Section **63A-16-903** is amended to read:

1662 **63A-16-903. Chief information officer review and approval of technology**
1663 **proposals.**

1664 (1) The chief information officer shall review and evaluate each technology proposal
1665 that the review board transmits to the chief information officer.

1666 (2) The chief information officer may approve and recommend that the division
1667 provide funding from legislative appropriations for a technology proposal if, after the chief
1668 information officer's review and evaluation of the technology proposal:

1669 (a) the chief information officer determines that there is a reasonably good likelihood
1670 that the technology proposal:

- 1671 (i) is capable of being implemented effectively; and
1672 (ii) will result in greater efficiency in a government process or a cost saving in the
1673 delivery of a government service, or both; and
- 1674 (b) the chief information officer receives approval from the governor's budget office
1675 for the technology proposal.
- 1676 (3) The chief information officer may:
- 1677 (a) prioritize multiple approved technology proposals based on their relative likelihood
1678 of achieving the goals described in Subsection (2); and
- 1679 (b) recommend funding based on the chief information officer's prioritization under
1680 Subsection (3)(a).
- 1681 (4) The division shall:
- 1682 (a) track the implementation and success of a technology proposal approved by the
1683 chief information officer;
- 1684 (b) evaluate the level of the technology proposal's implementation effectiveness and
1685 whether the implementation results in greater efficiency in a government process or a cost
1686 saving in the delivery of a government service, or both; and
- 1687 (c) report the results of the division's tracking and evaluation:
- 1688 (i) to the chief information officer, as frequently as the chief information officer
1689 requests; and
- 1690 (ii) at least annually to the [~~Public Utilities, Energy, and Technology~~] Government
1691 Operations Interim Committee.
- 1692 (5) The division may expend money appropriated by the Legislature to pay for
1693 expenses incurred by executive branch agencies in implementing a technology proposal that the
1694 chief information officer has approved.
- 1695 Section 41. Section **63A-17-106** is amended to read:
- 1696 **63A-17-106. Responsibilities of the director.**
- 1697 (1) The director shall have full responsibility and accountability for the administration
1698 of the statewide human resource management system.
- 1699 (2) Except as provided in Section **63A-17-201**, an agency may not perform human
1700 resource functions without the consent of the director.
- 1701 (3) Statewide human resource management rules [~~adopted~~] made by the division in

1702 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall take
1703 precedence if there is a conflict with agency rules, policies, or practices.

1704 (4) The division may operate as an internal service fund agency in accordance with
1705 Section 63J-1-410 for the human resource functions the division provides.

1706 (5) The director shall:

1707 (a) develop, implement, and administer a statewide program of human resource
1708 management that will:

1709 (i) aid in the efficient execution of public policy;

1710 (ii) foster careers in public service for qualified employees; and

1711 (iii) render assistance to state agencies in performing their missions;

1712 (b) design and administer the state pay plan;

1713 (c) design and administer the state classification system and procedures for determining
1714 schedule assignments;

1715 (d) design and administer the state recruitment and selection system;

1716 (e) administer agency human resource practices and ensure compliance with federal
1717 law, state law, and state human resource rules, including equal employment opportunity;

1718 (f) consult with agencies on decisions concerning employee corrective action and
1719 discipline;

1720 (g) maintain central personnel records;

1721 (h) perform those functions necessary to implement this chapter unless otherwise
1722 assigned or prohibited;

1723 (i) perform duties assigned by the governor, executive director, or statute;

1724 (j) adopt rules for human resource management according to the procedures of Title
1725 63G, Chapter 3, Utah Administrative Rulemaking Act;

1726 (k) establish and maintain a management information system that will furnish the
1727 governor, the Legislature, and agencies with current information on authorized positions,
1728 payroll, and related matters concerning state human resources;

1729 (l) conduct research and planning activities to:

1730 (i) determine and prepare for future state human resource needs;

1731 (ii) develop methods for improving public human resource management; and

1732 (iii) propose needed policy changes to the governor;

1733 (m) study the character, causes, and extent of discrimination in state employment and
1734 develop plans for its elimination through programs consistent with federal and state laws
1735 governing equal employment opportunity in employment;

1736 (n) when requested by charter schools or counties, municipalities, and other political
1737 subdivisions of the state, provide technical service, training recommendations, or advice on
1738 human resource management at a charge determined by the director;

1739 (o) establish compensation policies and procedures for early voluntary retirement;

1740 (p) confer with the heads of other agencies about human resource policies and
1741 procedures;

1742 (q) submit an annual report to the executive director, the governor, and the Legislature;
1743 and

1744 (r) assist with the development of a vacant position report required under Subsection
1745 [63J-1-201\(2\)\(b\)\(vi\)](#).

1746 (6) (a) After consultation with the executive director, the governor, and the heads of
1747 other agencies, the director shall establish and coordinate statewide training programs,
1748 including and subject to available funding, the development of manager and supervisor
1749 training.

1750 (b) The programs developed under this Subsection (6) shall have application to more
1751 than one agency.

1752 (c) The division may not establish training programs that train employees to perform
1753 highly specialized or technical jobs and tasks.

1754 (d) The division shall ensure that any training program described in this Subsection (6)
1755 complies with Title 63G, Chapter 22, State Training and Certification Requirements.

1756 (7) (a) (i) The division may collect fees for training as authorized by this Subsection
1757 (7).

1758 (ii) Training funded from General Fund appropriations shall be treated as a separate
1759 program within the department budget.

1760 (iii) All money received from fees under this section will be accounted for by the
1761 department as a separate user driven training program.

1762 (iv) The user training program includes the costs of developing, procuring, and
1763 presenting training and development programs, and other associated costs for these programs.

1764 (b) (i) Funds remaining at the end of the fiscal year in the user training program are
1765 nonlapsing.

1766 (ii) Each year, as part of the appropriations process, the Legislature shall review the
1767 amount of nonlapsing funds remaining at the end of the fiscal year and may, by statute, require
1768 the department to lapse a portion of the funds.

1769 Section 42. Section **63A-17-107** is amended to read:

1770 **63A-17-107. Services and fees -- Submission to rate committee.**

1771 The director shall, before charging a [~~fee~~] rate for services provided by the division's
1772 internal service fund to an executive branch agency:

1773 (1) submit the proposed rates[~~, fees,~~] and cost analysis to the rate committee
1774 established in Section **63A-1-114**; and

1775 (2) obtain the approval of the Legislature as required under Section **63J-1-410**.

1776 Section 43. Section **63A-17-110** is amended to read:

1777 **63A-17-110. State pay plans for DNR peace officers and wildland firefighters.**

1778 (1) As used in this section:

1779 (a) "DNR peace officer" means an employee of the Department of Natural Resources
1780 who is designated as a peace officer by law.

1781 (b) "Wildland firefighter" means an employee of the Division of Forestry, Fire, and
1782 State Lands who is:

1783 (i) trained in firefighter techniques; and

1784 (ii) assigned to a position of hazardous duty.

1785 (2) The director shall:

1786 (a) establish a specialized state pay plan for DNR peace officers and wildland
1787 firefighters that:

1788 (i) meets the requirements of Section **63A-17-307**;

1789 (ii) distinguishes the salary range for each DNR peace officer and wildland firefighter
1790 classification;

1791 (iii) includes for each DNR peace officer and wildland firefighter classification:

1792 (A) the minimum qualifications; and

1793 (B) any training requirements; and

1794 (iv) provides standards for:

1795 (A) performance evaluation; and
1796 (B) promotion; and
1797 (b) include, in the plan described in Subsection [~~67-19-12(5)~~] [63A-17-307\(5\)](#),
1798 recommendations on funding and salary increases for DNR peace officers and wildland
1799 firefighters.

1800 Section 44. Section **63A-17-202** is amended to read:

1801 **63A-17-202. Use of facilities -- Field office facilities cost allocation.**

1802 (1) An agency or a political subdivision of the state shall allow the division to use
1803 public buildings under the agency's [~~of~~] or the political subdivision's control, and furnish heat,
1804 light, and furniture, for any examination, training, hearing, or investigation authorized by this
1805 chapter.

1806 (2) An agency or political subdivision that allows the division to use a public building
1807 under Subsection (1) shall pay the cost of the division's use of the public building.

1808 Section 45. Section **63A-17-304** is amended to read:

1809 **63A-17-304. Promotion -- Reclassification -- Market adjustment.**

1810 (1) (a) If an employee is promoted or the employee's position is reclassified to a higher
1811 salary range maximum, the agency shall place the employee within the new range of the
1812 position.

1813 (b) An agency may not set an employee's salary:

1814 (i) higher than the maximum in the new salary range; [~~and~~] or

1815 (ii) lower than the minimum in the new salary range of the position.

1816 (c) Except for an employee described in Subsection [63A-17-301\(1\)\(q\)](#), the agency shall
1817 grant a salary increase of at least 5% to an employee who is promoted.

1818 (2) An agency shall adjust the salary range for an employee whose salary range is
1819 approved by the Legislature for a market comparability adjustment consistent with Subsection
1820 [63A-17-307\(5\)\(b\)\(i\)](#):

1821 (a) at the beginning of the next fiscal year; and

1822 (b) consistent with appropriations made by the Legislature.

1823 (3) Division-initiated revisions in the state classification system that result in
1824 consolidation or reduction of class titles or broadening of pay ranges:

1825 (a) may not be regarded as a reclassification of the position or promotion of the

1826 employee; and

1827 (b) are exempt from the provisions of Subsection (1).

1828 Section 46. Section **63A-17-306** is amended to read:

1829 **63A-17-306. Dismissals and demotions -- Grounds -- Disciplinary action --**

1830 **Procedure -- Reductions in force.**

1831 (1) A career service employee may be dismissed or demoted:

1832 (a) to advance the good of the public service; or

1833 (b) for just causes, including inefficiency, incompetency, failure to maintain skills or
1834 adequate performance levels, insubordination, disloyalty to the orders of a superior,
1835 misfeasance, malfeasance, or nonfeasance in office.

1836 (2) An employee may not be dismissed because of race, sex, age, disability, national
1837 origin, religion, political affiliation, or other nonmerit factor including the exercise of rights
1838 under this chapter.

1839 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1840 director shall [~~establish~~] make rules governing the procedural and documentary requirements of
1841 disciplinary dismissals and demotions.

1842 (4) If an agency head finds that a career service employee is charged with aggravated
1843 misconduct or that retention of a career service employee would endanger the peace and safety
1844 of others or pose a grave threat to the public interest, the employee may be suspended pending
1845 the administrative appeal to the department head as provided in Subsection (5).

1846 (5) (a) A career service employee may not be demoted or dismissed unless the
1847 department head or designated representative has complied with this subsection.

1848 (b) The department head or designated representative notifies the employee in writing
1849 of the reasons for the dismissal or demotion.

1850 (c) The employee has no less than five working days to reply and have the reply
1851 considered by the department head.

1852 (d) The employee has an opportunity to be heard by the department head or designated
1853 representative.

1854 (e) Following the hearing, the employee may be dismissed or demoted if the
1855 department head finds adequate cause or reason.

1856 (6) (a) Reductions in force required by inadequate funds, change of workload, or lack

1857 of work are governed by retention points established by the director.

1858 (b) Under those circumstances:

1859 (i) The agency head shall designate the category of work to be eliminated, subject to
1860 review by the director.

1861 (ii) Temporary and probationary employees shall be separated before any career service
1862 employee.

1863 (iii) (A) When more than one career service employee is affected, the employees shall
1864 be separated in the order of their retention points, the employee with the lowest points to be
1865 discharged first.

1866 (B) Retention points for each career service employee shall be computed according to
1867 rules established by the director, allowing appropriate consideration for proficiency and
1868 seniority in state government, including any active duty military service fulfilled subsequent to
1869 original state appointment.

1870 (c) (i) A career service employee who is separated in a reduction in force under this
1871 section shall be given preferential consideration when applying for a career service position.

1872 (ii) Preferential consideration under Subsection (6)(c)(i) applies only until the former
1873 career service employee accepts a career service position.

1874 (iii) The director shall make rules in accordance with Title 63G, Chapter 3, Utah
1875 Administrative Rulemaking Act, concerning the manner of granting preferential consideration
1876 under Subsection (6)(c)(i).

1877 (d) (i) An employee separated due to a reduction in force may appeal to the department
1878 head for an administrative review.

1879 (ii) The notice of appeal must be submitted within 20 working days after the
1880 employee's receipt of written notification of separation.

1881 (iii) The employee may appeal the decision of the department head according to the
1882 grievance and appeals procedure of this chapter and Title 67, Chapter 19a, Grievance
1883 Procedures.

1884 Section 47. Section **63A-17-307** is amended to read:

1885 **63A-17-307. State pay plans -- Applicability of section -- Exemptions -- Duties of**
1886 **director.**

1887 (1) (a) This section, and the rules [~~adopted~~] made by the division [~~to implement~~] under

1888 this section, apply to each career and noncareer employee not specifically exempted under
1889 Subsection (2).

1890 (b) If not exempted under Subsection (2), an employee is considered to be in classified
1891 service.

1892 (2) The following employees are exempt from this section:

1893 (a) members of the Legislature and legislative employees;

1894 (b) members of the judiciary and judicial employees;

1895 (c) elected members of the executive branch and employees designated as schedule AC
1896 as provided under Subsection 63A-17-301(1)(c);

1897 (d) employees of the State Board of Education;

1898 (e) officers, faculty, and other employees of state institutions of higher education;

1899 (f) employees in a position that is specified by statute to be exempt from this

1900 Subsection (2);

1901 (g) employees in the Office of the Attorney General;

1902 (h) department heads and other persons appointed by the governor under statute;

1903 (i) schedule AS employees as provided under Subsection 63A-17-301(1)(m);

1904 (j) department deputy directors, division directors, and other employees designated as
1905 schedule AD as provided under Subsection 63A-17-301(1)(d);

1906 (k) employees that determine and execute policy designated as schedule AR as
1907 provided under Subsection 63A-17-301(1)(l);

1908 (l) teaching staff, educational interpreters, and educators designated as schedule AH as
1909 provided under Subsection 63A-17-301(1)(g);

1910 (m) temporary employees described in Subsection 63A-17-301(1)(q);

1911 (n) patients and inmates designated as schedule AU as provided under Subsection
1912 63A-17-301(1)(o) who are employed by state institutions; and

1913 (o) members of state and local boards and councils and other employees designated as
1914 schedule AQ as provided under Subsection 63A-17-301(1)(k).

1915 (3) (a) The director shall prepare, maintain, and revise a position classification plan for
1916 each employee position not exempted under Subsection (2) to provide equal pay for equal
1917 work.

1918 (b) Classification of positions shall be based upon similarity of duties performed and

1919 responsibilities assumed, so that the same job requirements and the same salary range may be
1920 applied equitably to each position in the same class.

1921 (c) The director shall allocate or reallocate the position of each employee in classified
1922 service to one of the classes in the classification plan.

1923 (d) (i) The division shall conduct periodic studies and interviews to provide that the
1924 classification plan remains reasonably current and reflects the duties and responsibilities
1925 assigned to and performed by employees.

1926 (ii) The director shall determine the need for studies and interviews after considering
1927 factors such as changes in duties and responsibilities of positions or agency reorganizations.

1928 (4) (a) With the approval of the executive director and the governor, the director shall
1929 develop and adopt pay plans for each position in classified service.

1930 (b) The director shall design each pay plan to achieve, to the degree that funds permit,
1931 comparability of state salary ranges to the market using data obtained from private enterprise
1932 and other public employment for similar work.

1933 (c) The director shall adhere to the following in developing each pay plan:

1934 (i) each pay plan shall consist of sufficient salary ranges to:

1935 (A) permit adequate salary differential among the various classes of positions in the
1936 classification plan; and

1937 (B) reflect the normal growth and productivity potential of employees in that class.

1938 (ii) The director shall issue rules for the administration of pay plans.

1939 (d) The establishing of a salary range is a nondelegable activity and is not appealable
1940 under the grievance procedures of Part 6, Grievance Provisions, Title 67, Chapter 19a,
1941 Grievance Procedures, or otherwise.

1942 (e) The director shall ~~issue~~ make rules, in accordance with Title 63G, Chapter 3, Utah
1943 Administrative Rulemaking Act, providing for:

1944 (i) agency approved salary adjustments within approved salary ranges, including an
1945 administrative salary adjustment;

1946 (ii) legislatively approved salary adjustments within approved salary ranges, including
1947 a merit increase, subject to Subsection (4)(f), or general increase; and

1948 (iii) structure adjustments that modify salary ranges, including a cost of living
1949 adjustment or market comparability adjustment.

1950 (f) A merit increase shall be granted on a uniform and consistent basis to each
1951 employee who receives a rating of "successful" or higher in an annual evaluation of the
1952 employee's productivity and performance.

1953 (5) (a) On or before October 31 of each year, the director shall submit an annual
1954 compensation plan to the executive director and the governor for consideration in the executive
1955 budget.

1956 (b) The plan described in Subsection (5)(a) may include recommendations, including:

1957 (i) salary increases that generally affect employees, including a general increase or
1958 merit increase;

1959 (ii) salary increases that address compensation issues unique to an agency or
1960 occupation;

1961 (iii) structure adjustments, including a cost of living adjustment or market
1962 comparability adjustment; or

1963 (iv) changes to employee benefits.

1964 (c) (i) (A) Subject to Subsection (5)(c)(i)(B) or (C), the director shall incorporate the
1965 results of a salary survey of a reasonable cross section of comparable positions in private and
1966 public employment in the state into the annual compensation plan.

1967 (B) The salary survey for a law enforcement officer, as defined in Section 53-13-103, a
1968 correctional officer, as defined in Section 53-13-104, or a dispatcher, as defined in Section
1969 53-6-102, shall at minimum include the three largest political subdivisions in the state that
1970 employ, respectively, comparable positions.

1971 (C) The salary survey for an examiner or supervisor described in Title 7, Chapter 1,
1972 Part 2, Department of Financial Institutions, shall at minimum include the Federal Deposit
1973 Insurance Corporation, Federal Reserve, and National Credit Union Administration.

1974 (ii) The director may cooperate with or participate in any survey conducted by other
1975 public and private employers.

1976 (iii) The director shall obtain information for the purpose of constructing the survey
1977 from the Division of Workforce Information and Payment Services and shall include employer
1978 name, number of persons employed by the employer, employer contact information and job
1979 titles, county code, and salary if available.

1980 (iv) The division shall acquire and protect the needed records in compliance with the

1981 provisions of Section 35A-4-312.

1982 (d) The director may incorporate any other relevant information in the plan described
1983 in Subsection (5)(a), including information on staff turnover, recruitment data, or external
1984 market trends.

1985 (e) The director shall:

1986 (i) establish criteria to assure the adequacy and accuracy of data used to make
1987 recommendations described in this Subsection (5); and

1988 (ii) when preparing recommendations use accepted methodologies and techniques
1989 similar to and consistent with those used in the private sector.

1990 (f) (i) Upon request and subject to Subsection (5)(f)(ii), the division shall make
1991 available foundational information used by the division or director in the drafting of a plan
1992 described in Subsection (5)(a), including:

1993 (A) demographic and labor market information;

1994 (B) information on employee turnover;

1995 (C) salary information;

1996 (D) information on recruitment; and

1997 (E) geographic data.

1998 (ii) The division may not provide under Subsection (5)(f)(i) information or other data
1999 that is proprietary or otherwise protected under the terms of a contract or by law.

2000 (g) The governor shall:

2001 (i) consider salary and structure adjustments recommended under Subsection (5)(b) in
2002 preparing the executive budget and shall recommend the method of distributing the
2003 adjustments;

2004 (ii) submit compensation recommendations to the Legislature; and

2005 (iii) support the recommendation with schedules indicating the cost to individual
2006 departments and the source of funds.

2007 (h) If funding is approved by the Legislature in a general appropriations act, the
2008 adjustments take effect on the July 1 following the enactment unless otherwise indicated.

2009 (6) (a) The director shall ~~[issue]~~ make rules, in accordance with Title 63G, Chapter 3,
2010 Utah Administrative Rulemaking Act, for the granting of incentive awards, including awards
2011 for cost saving actions, awards for commendable actions by an employee, or a market-based

2012 award to attract or retain employees.

2013 (b) An agency may not grant a market-based award unless the award is previously
2014 approved by the division.

2015 (c) In accordance with Subsection (6)(b), an agency requesting the division's approval
2016 of a market-based award shall submit a request and documentation, subject to Subsection
2017 (6)(d), to the division.

2018 (d) In the documentation required in Subsection (6)(c), the requesting agency shall
2019 identify for the division:

2020 (i) any benefit the market-based award would provide for the agency, including:

2021 (A) budgetary advantages; or

2022 (B) recruitment advantages;

2023 (ii) a mission critical need to attract or retain unique or hard to find skills in the market;

2024 or

2025 (iii) any other advantage the agency would gain through the utilization of a
2026 market-based award.

2027 (7) (a) The director shall regularly evaluate the total compensation program of state
2028 employees in the classified service.

2029 (b) The division shall determine if employee benefits are comparable to those offered
2030 by other private and public employers using information from:

2031 (i) a study conducted by a third-party consultant; or

2032 (ii) the most recent edition of a nationally recognized benefits survey.

2033 Section 48. Section **63A-17-806** is amended to read:

2034 **63A-17-806. Definitions -- Infant at Work Pilot Program -- Administration --**
2035 **Report.**

2036 (1) As used in this section:

2037 (a) "Eligible employee" means an employee who has been employed by the
2038 Department of Health for a minimum of:

2039 (i) 12 consecutive months; and

2040 (ii) 1,250 hours, excluding paid time off during the 12-month period immediately
2041 preceding the day on which the employee applies for participation in the program.

2042 (b) "Infant" means a baby that is at least six weeks of age and no more than six months

2043 of age.

2044 (c) "Parent" means:

2045 (i) a biological or adoptive parent of an infant; or

2046 (ii) an individual who has an infant placed in the individual's foster care by the

2047 Division of Child and Family Services.

2048 (d) "Program" means the Infant at Work Pilot Program established in this section.

2049 (2) There is created the Infant at Work Pilot Program for eligible employees.

2050 (3) The program shall:

2051 (a) allow an eligible employee to bring the eligible employee's infant to work subject to
2052 the provisions of this section;

2053 (b) be administered by the division; and

2054 (c) be implemented for a minimum of one year.

2055 (4) The division shall establish an application process for eligible employees of the
2056 Department of Health to apply to the program that includes:

2057 (a) a process for evaluating whether an eligible employee's work environment is
2058 appropriate for an infant;

2059 (b) guidelines for infant health and safety; and

2060 (c) guidelines regarding an eligible employee's initial and ongoing participation in the
2061 program.

2062 (5) If the division approves the eligible employee for participation in the program, the
2063 eligible employee shall have the sole responsibility for the care and safety of the infant at the
2064 workplace.

2065 (6) The division may not require the Department of Health to designate or set aside
2066 space for an eligible employee's infant other than the eligible employee's existing work space.

2067 (7) The division, in consultation with the Department of Health, shall [~~adopt~~] make
2068 rules that the department determines necessary to establish the program in accordance with
2069 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

2070 (8) On or before June 30, 2022, the division, in consultation with the Department of
2071 Health, shall submit a written report to the Business and Labor Interim Committee that
2072 describes the efficacy of the program, including any recommendations for additional legislative
2073 action.

2074 Section 49. Section **63A-17-1004** is amended to read:

2075 **63A-17-1004. Drug testing of state employees.**

2076 (1) Except as provided in Subsection (2), when there is reasonable suspicion that an
2077 employee is using a controlled substance or alcohol unlawfully during work hours, an
2078 employee may be required to submit to medically accepted testing procedures for a
2079 determination of whether the employee is using a controlled substance or alcohol in violation
2080 of this part.

2081 (2) In highly sensitive positions, as identified in department class specifications,
2082 random drug testing of employees may be conducted by an agency in accordance with the rules
2083 of the director.

2084 (3) All drug or alcohol testing shall be:

2085 (a) conducted by a federally certified and licensed physician, a federally certified and
2086 licensed medical clinic, or testing facility federally certified and licensed to conduct medically
2087 accepted drug testing; and

2088 (b) conducted in accordance with the rules of the director made under Section
2089 [63A-17-1002](#)~~;~~and].

2090 [~~(c) kept confidential in accordance with the rules of the director made in accordance~~
2091 ~~with Section [63A-17-1002](#).]~~

2092 (4) A record relating to drug or alcohol testing of a state employee is classified as a
2093 private record under Section [63G-2-302](#).

2094 [~~(4)~~] (5) A physician, medical clinic, or testing facility may not be held liable in any
2095 civil action brought by a party for:

2096 (a) performing or failing to perform a test under this section;

2097 (b) issuing or failing to issue a test result under this section; or

2098 (c) acting or omitting to act in any other way in good faith under this section.

2099 Section 50. Section **63G-2-302** is amended to read:

2100 **63G-2-302. Private records.**

2101 (1) The following records are private:

2102 (a) records concerning an individual's eligibility for unemployment insurance benefits,
2103 social services, welfare benefits, or the determination of benefit levels;

2104 (b) records containing data on individuals describing medical history, diagnosis,

- 2105 condition, treatment, evaluation, or similar medical data;
- 2106 (c) records of publicly funded libraries that when examined alone or with other records
2107 identify a patron;
- 2108 (d) records received by or generated by or for:
- 2109 (i) the Independent Legislative Ethics Commission, except for:
- 2110 (A) the commission's summary data report that is required under legislative rule; and
2111 (B) any other document that is classified as public under legislative rule; or
- 2112 (ii) a Senate or House Ethics Committee in relation to the review of ethics complaints,
2113 unless the record is classified as public under legislative rule;
- 2114 (e) records received by, or generated by or for, the Independent Executive Branch
2115 Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review
2116 of Executive Branch Ethics Complaints;
- 2117 (f) records received or generated for a Senate confirmation committee concerning
2118 character, professional competence, or physical or mental health of an individual:
- 2119 (i) if, prior to the meeting, the chair of the committee determines release of the records:
- 2120 (A) reasonably could be expected to interfere with the investigation undertaken by the
2121 committee; or
- 2122 (B) would create a danger of depriving a person of a right to a fair proceeding or
2123 impartial hearing; and
- 2124 (ii) after the meeting, if the meeting was closed to the public;
- 2125 (g) employment records concerning a current or former employee of, or applicant for
2126 employment with, a governmental entity that would disclose that individual's home address,
2127 home telephone number, social security number, insurance coverage, marital status, or payroll
2128 deductions;
- 2129 (h) records or parts of records under Section [63G-2-303](#) that a current or former
2130 employee identifies as private according to the requirements of that section;
- 2131 (i) that part of a record indicating a person's social security number or federal employer
2132 identification number if provided under Section [31A-23a-104](#), [31A-25-202](#), [31A-26-202](#),
2133 [58-1-301](#), [58-55-302](#), [61-1-4](#), or [61-2f-203](#);
- 2134 (j) that part of a voter registration record identifying a voter's:
- 2135 (i) driver license or identification card number;

- 2136 (ii) social security number, or last four digits of the social security number;
- 2137 (iii) email address;
- 2138 (iv) date of birth; or
- 2139 (v) phone number;
- 2140 (k) a voter registration record that is classified as a private record by the lieutenant
- 2141 governor or a county clerk under Subsection 20A-2-101.1(5)(a), 20A-2-104(4)(h), or
- 2142 20A-2-204(4)(b);
- 2143 (l) a voter registration record that is withheld under Subsection 20A-2-104(7);
- 2144 (m) a withholding request form described in Subsections 20A-2-104(7) and (8) and any
- 2145 verification submitted in support of the form;
- 2146 (n) a record that:
 - 2147 (i) contains information about an individual;
 - 2148 (ii) is voluntarily provided by the individual; and
 - 2149 (iii) goes into an electronic database that:
 - 2150 (A) is designated by and administered under the authority of the Chief Information
 - 2151 Officer; and
 - 2152 (B) acts as a repository of information about the individual that can be electronically
 - 2153 retrieved and used to facilitate the individual's online interaction with a state agency;
 - 2154 (o) information provided to the Commissioner of Insurance under:
 - 2155 (i) Subsection 31A-23a-115(3)(a);
 - 2156 (ii) Subsection 31A-23a-302(4); or
 - 2157 (iii) Subsection 31A-26-210(4);
 - 2158 (p) information obtained through a criminal background check under Title 11, Chapter
 - 2159 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;
 - 2160 (q) information provided by an offender that is:
 - 2161 (i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap
 - 2162 Offender Registry or Title 77, Chapter 43, Child Abuse Offender Registry; and
 - 2163 (ii) not required to be made available to the public under Subsection 77-41-110(4) or
 - 2164 77-43-108(4);
 - 2165 (r) a statement and any supporting documentation filed with the attorney general in
 - 2166 accordance with Section 34-45-107, if the federal law or action supporting the filing involves

- 2167 homeland security;
- 2168 (s) electronic toll collection customer account information received or collected under
2169 Section 72-6-118 and customer information described in Section 17B-2a-815 received or
2170 collected by a public transit district, including contact and payment information and customer
2171 travel data;
- 2172 (t) an email address provided by a military or overseas voter under Section
2173 20A-16-501;
- 2174 (u) a completed military-overseas ballot that is electronically transmitted under Title
2175 20A, Chapter 16, Uniform Military and Overseas Voters Act;
- 2176 (v) records received by or generated by or for the Political Subdivisions Ethics Review
2177 Commission established in Section 63A-15-201, except for:
- 2178 (i) the commission's summary data report that is required in Section 63A-15-202; and
2179 (ii) any other document that is classified as public in accordance with Title 63A,
2180 Chapter 15, Political Subdivisions Ethics Review Commission;
- 2181 (w) a record described in Section 53G-9-604 that verifies that a parent was notified of
2182 an incident or threat;
- 2183 (x) a criminal background check or credit history report conducted in accordance with
2184 Section 63A-3-201;
- 2185 (y) a record described in Subsection 53-5a-104(7);
- 2186 (z) on a record maintained by a county for the purpose of administering property taxes,
2187 an individual's:
- 2188 (i) email address;
- 2189 (ii) phone number; or
- 2190 (iii) personal financial information related to a person's payment method;
- 2191 (aa) a record submitted by a taxpayer to establish the taxpayer's eligibility for an
2192 exemption, deferral, abatement, or relief under:
- 2193 (i) Title 59, Chapter 2, Part 11, Exemptions, Deferrals, and Abatements;
- 2194 (ii) Title 59, Chapter 2, Part 12, Property Tax Relief;
- 2195 (iii) Title 59, Chapter 2, Part 18, Tax Deferral and Tax Abatement; or
- 2196 (iv) Title 59, Chapter 2, Part 19, Armed Forces Exemptions; [and]
- 2197 (bb) a record provided by the State Tax Commission in response to a request under

2198 Subsection [59-1-403\(4\)\(y\)\(iii\)](#)[-]; and

2199 (cc) a record relating to drug or alcohol testing of a state employee under Section
2200 [63A-17-1004](#).

2201 (2) The following records are private if properly classified by a governmental entity:

2202 (a) records concerning a current or former employee of, or applicant for employment
2203 with a governmental entity, including performance evaluations and personal status information
2204 such as race, religion, or disabilities, but not including records that are public under Subsection
2205 [63G-2-301\(2\)\(b\)](#) or [63G-2-301\(3\)\(o\)](#) or private under Subsection (1)(b);

2206 (b) records describing an individual's finances, except that the following are public:

2207 (i) records described in Subsection [63G-2-301\(2\)](#);

2208 (ii) information provided to the governmental entity for the purpose of complying with
2209 a financial assurance requirement; or

2210 (iii) records that must be disclosed in accordance with another statute;

2211 (c) records of independent state agencies if the disclosure of those records would
2212 conflict with the fiduciary obligations of the agency;

2213 (d) other records containing data on individuals the disclosure of which constitutes a
2214 clearly unwarranted invasion of personal privacy;

2215 (e) records provided by the United States or by a government entity outside the state
2216 that are given with the requirement that the records be managed as private records, if the
2217 providing entity states in writing that the record would not be subject to public disclosure if
2218 retained by it;

2219 (f) any portion of a record in the custody of the Division of Aging and Adult Services,
2220 created in Section [62A-3-102](#), that may disclose, or lead to the discovery of, the identity of a
2221 person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult; and

2222 (g) audio and video recordings created by a body-worn camera, as defined in Section
2223 [77-7a-103](#), that record sound or images inside a home or residence except for recordings that:

2224 (i) depict the commission of an alleged crime;

2225 (ii) record any encounter between a law enforcement officer and a person that results in
2226 death or bodily injury, or includes an instance when an officer fires a weapon;

2227 (iii) record any encounter that is the subject of a complaint or a legal proceeding
2228 against a law enforcement officer or law enforcement agency;

2229 (iv) contain an officer involved critical incident as defined in Subsection
2230 76-2-408(1)(f); or

2231 (v) have been requested for reclassification as a public record by a subject or
2232 authorized agent of a subject featured in the recording.

2233 (3) (a) As used in this Subsection (3), "medical records" means medical reports,
2234 records, statements, history, diagnosis, condition, treatment, and evaluation.

2235 (b) Medical records in the possession of the University of Utah Hospital, its clinics,
2236 doctors, or affiliated entities are not private records or controlled records under Section
2237 63G-2-304 when the records are sought:

2238 (i) in connection with any legal or administrative proceeding in which the patient's
2239 physical, mental, or emotional condition is an element of any claim or defense; or

2240 (ii) after a patient's death, in any legal or administrative proceeding in which any party
2241 relies upon the condition as an element of the claim or defense.

2242 (c) Medical records are subject to production in a legal or administrative proceeding
2243 according to state or federal statutes or rules of procedure and evidence as if the medical
2244 records were in the possession of a nongovernmental medical care provider.

2245 Section 51. Section **63I-5-201 (Superseded 07/01/22)** is amended to read:

2246 **63I-5-201 (Superseded 07/01/22). Internal auditing programs -- State agencies.**

2247 (1) (a) The departments of [~~Administrative Services~~] Government Operations,
2248 Agriculture, Commerce, Cultural and Community Engagement, Corrections, Workforce
2249 Services, Environmental Quality, Health, Human Services, Natural Resources, Public Safety,
2250 and Transportation, and the State Tax Commission shall conduct various types of auditing
2251 procedures as determined by the agency head or governor.

2252 (b) The governor may, by executive order, require a state agency not described in
2253 Subsection (1)(a) to establish an internal audit program.

2254 (c) The governor shall ensure that each state agency that reports to the governor has
2255 adequate internal audit coverage.

2256 (2) (a) The Administrative Office of the Courts shall establish an internal audit
2257 program under the direction of the Judicial Council, including auditing procedures for courts
2258 not of record.

2259 (b) The Judicial Council may, by rule, require other judicial agencies to establish an

2260 internal audit program.

2261 (3) (a) Dixie State University, the University of Utah, Utah State University, Salt Lake
2262 Community College, Southern Utah University, Utah Valley University, Weber State
2263 University, and Snow College shall establish an internal audit program under the direction of
2264 the Utah Board of Higher Education.

2265 (b) The Utah Board of Higher Education may issue policies requiring other higher
2266 education entities or programs to establish an internal audit program.

2267 (4) The State Board of Education shall establish an internal audit program that provides
2268 internal audit services for each program administered by the State Board of Education.

2269 (5) Subject to Section 32B-2-302.5, the internal audit division of the Department of
2270 Alcoholic Beverage Control shall establish an internal audit program under the direction of the
2271 Alcoholic Beverage Control Commission.

2272 Section 52. Section 63I-5-201 (Effective 07/01/22) is amended to read:

2273 **63I-5-201 (Effective 07/01/22). Internal auditing programs -- State agencies.**

2274 (1) (a) The departments of [~~Administrative Services~~] Government Operations,
2275 Agriculture, Commerce, Cultural and Community Engagement, Corrections, Workforce
2276 Services, Environmental Quality, Health, Human Services, Natural Resources, Public Safety,
2277 and Transportation, and the State Tax Commission shall conduct various types of auditing
2278 procedures as determined by the agency head or governor.

2279 (b) The governor may, by executive order, require a state agency not described in
2280 Subsection (1)(a) to establish an internal audit program.

2281 (c) The governor shall ensure that each state agency that reports to the governor has
2282 adequate internal audit coverage.

2283 (2) (a) The Administrative Office of the Courts shall establish an internal audit
2284 program under the direction of the Judicial Council, including auditing procedures for courts
2285 not of record.

2286 (b) The Judicial Council may, by rule, require other judicial agencies to establish an
2287 internal audit program.

2288 (3) (a) Utah Tech University, the University of Utah, Utah State University, Salt Lake
2289 Community College, Southern Utah University, Utah Valley University, Weber State
2290 University, and Snow College shall establish an internal audit program under the direction of

2291 the Utah Board of Higher Education.

2292 (b) The Utah Board of Higher Education may issue policies requiring other higher
2293 education entities or programs to establish an internal audit program.

2294 (4) The State Board of Education shall establish an internal audit program that provides
2295 internal audit services for each program administered by the State Board of Education.

2296 (5) Subject to Section [32B-2-302.5](#), the internal audit division of the Department of
2297 Alcoholic Beverage Control shall establish an internal audit program under the direction of the
2298 Alcoholic Beverage Control Commission.

2299 Section 53. Section **67-3-12** is amended to read:

2300 **67-3-12. Utah Public Finance Website -- Establishment and administration --**

2301 **Records disclosure -- Exceptions.**

2302 (1) As used in this section:

2303 (a) (i) Subject to Subsections (1)(a)(ii) and (iii), "independent entity" means the same
2304 as that term is defined in Section [63E-1-102](#).

2305 (ii) "Independent entity" includes an entity that is part of an independent entity
2306 described in Subsection (1)(a)(i), if the entity is considered a component unit of the
2307 independent entity under the governmental accounting standards issued by the Governmental
2308 Accounting Standards Board.

2309 (iii) "Independent entity" does not include the Utah State Retirement Office created in
2310 Section [49-11-201](#).

2311 (b) "Local education agency" means a school district or charter school.

2312 (c) "Participating local entity" means:

2313 (i) a county;

2314 (ii) a municipality;

2315 (iii) a local district under Title 17B, Limited Purpose Local Government Entities -
2316 Local Districts;

2317 (iv) a special service district under Title 17D, Chapter 1, Special Service District Act;

2318 (v) a housing authority under Title 35A, Chapter 8, Part 4, Housing Authorities;

2319 (vi) a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District
2320 Act;

2321 (vii) except for a taxed interlocal entity as defined in Section [11-13-602](#):

- 2322 (A) an interlocal entity as defined in Section [11-13-103](#);
- 2323 (B) a joint or cooperative undertaking as defined in Section [11-13-103](#); or
- 2324 (C) any project, program, or undertaking entered into by interlocal agreement in
2325 accordance with Title 11, Chapter 13, Interlocal Cooperation Act;
- 2326 (viii) except for a taxed interlocal entity as defined in Section [11-13-602](#), an entity that
2327 is part of an entity described in Subsections (1)(c)(i) through (vii), if the entity is considered a
2328 component unit of the entity described in Subsections (1)(c)(i) through (vii) under the
2329 governmental accounting standards issued by the Governmental Accounting Standards Board;
- 2330 or
- 2331 (ix) a conservation district under Title 17D, Chapter 3, Conservation District Act.
- 2332 (d) (i) "Participating state entity" means the state of Utah, including its executive,
2333 legislative, and judicial branches, its departments, divisions, agencies, boards, commissions,
2334 councils, committees, and institutions.
- 2335 (ii) "Participating state entity" includes an entity that is part of an entity described in
2336 Subsection (1)(d)(i), if the entity is considered a component unit of the entity described in
2337 Subsection (1)(d)(i) under the governmental accounting standards issued by the Governmental
2338 Accounting Standards Board.
- 2339 (e) "Public finance website" or "website" means the website established by the state
2340 auditor in accordance with this section.
- 2341 (f) "Public financial information" means each record that is required under this section
2342 or by rule made by the Office of the State Auditor under Subsection (8) to be made available on
2343 the public finance website, a participating local entity's website, or an independent entity's
2344 website.
- 2345 (g) "Qualifying entity" means:
 - 2346 (i) an independent entity;
 - 2347 (ii) a participating local entity;
 - 2348 (iii) a participating state entity;
 - 2349 (iv) a local education agency;
 - 2350 (v) a state institution of higher education as defined in Section [53B-3-102](#);
 - 2351 (vi) the Utah Educational Savings Plan created in Section [~~58B-8a-103~~] [53B-8a-103](#);
 - 2352 (vii) the Utah Housing Corporation created in Section [63H-8-201](#);

2353 (viii) the School and Institutional Trust Lands Administration created in Section
2354 53C-1-201;

2355 (ix) the Utah Capital Investment Corporation created in Section 63N-6-301; or

2356 (x) a URS-participating employer.

2357 (h) (i) "URS-participating employer" means an entity that:

2358 (A) is a participating entity, as that term is defined in Section 49-11-102; and

2359 (B) is not required to report public financial information under this section as a
2360 qualifying entity described in Subsections (1)(g)(i) through (ix).

2361 (ii) "URS-participating employer" does not include:

2362 (A) the Utah State Retirement Office created in Section 49-11-201; or

2363 (B) a withdrawing entity.

2364 (i) (i) "Withdrawing entity" means an entity that elects to withdraw from participation
2365 in a system or plan under Title 49, Chapter 11, Part 6, Procedures and Records.

2366 (ii) "Withdrawing entity" includes a withdrawing entity, as that term is defined in
2367 Sections 49-11-623 and 49-11-624.

2368 (2) The state auditor shall establish and maintain a public finance website in
2369 accordance with this section.

2370 (3) The website shall:

2371 (a) permit Utah taxpayers to:

2372 (i) view, understand, and track the use of taxpayer dollars by making public financial
2373 information available on the Internet for participating state entities, independent entities,
2374 participating local entities, and URS-participating employers, using the website; and

2375 (ii) link to websites administered by participating local entities, independent entities, or
2376 URS-participating employers that do not use the website for the purpose of providing public
2377 financial information as required by this section and by rule made under Subsection [~~(8)~~] (9);

2378 (b) allow a person that has Internet access to use the website without paying a fee;

2379 (c) allow the public to search public financial information on the website;

2380 (d) provide access to financial reports, financial audits, budgets, or other financial
2381 documents that are used to allocate, appropriate, spend, and account for government funds, as
2382 may be established by rule made in accordance with Subsection (9);

2383 (e) have a unique and simplified website address;

- 2384 (f) be guided by the principles described in Subsection [63A-16-202\(2\)](#);
- 2385 (g) include other links, features, or functionality that will assist the public in obtaining
- 2386 and reviewing public financial information, as may be established by rule made under
- 2387 Subsection (9); and
- 2388 (h) include a link to school report cards published on the State Board of Education's
- 2389 website under Section [53E-5-211](#).
- 2390 (4) The state auditor shall:
- 2391 (a) establish and maintain the website, including the provision of equipment, resources,
- 2392 and personnel as necessary;
- 2393 (b) maintain an archive of all information posted to the website;
- 2394 (c) coordinate and process the receipt and posting of public financial information from
- 2395 participating state entities; and
- 2396 (d) coordinate and regulate the posting of public financial information by participating
- 2397 local entities and independent entities.
- 2398 (5) A qualifying entity shall permit the public to view the qualifying entity's public
- 2399 financial information by posting the public financial information to the public finance website
- 2400 in accordance with rules made under Subsection (9).
- 2401 (6) The content of the public financial information posted to the public finance website
- 2402 is the responsibility of the qualifying entity posting the public financial information.
- 2403 (7) A URS-participating employer shall provide employee compensation information
- 2404 for each fiscal year ending on or after June 30, 2022:
- 2405 (a) to the state auditor for posting on the Utah Public Finance Website; or
- 2406 (b) (i) through the URS-participating employer's own website; and
- 2407 (ii) via a link to the website described in Subsection (7)(b)(i), submitted to the state
- 2408 auditor for posting on the Utah Public Finance Website.
- 2409 (8) (a) A qualifying entity may not post financial information that is classified as
- 2410 private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and
- 2411 Management Act, to the public finance website.
- 2412 (b) An individual who negligently discloses financial information that is classified as
- 2413 private, protected, or controlled by Title 63G, Chapter 2, Government Records Access and
- 2414 Management Act, is not criminally or civilly liable for an improper disclosure of the financial

2415 information if the financial information is disclosed solely as a result of the preparation or
2416 publication of the website.

2417 (9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2418 Office of the State Auditor:

2419 (a) shall make rules to:

2420 (i) establish which records a qualifying entity is required to post to the public finance
2421 website; and

2422 (ii) establish procedures for obtaining, submitting, reporting, storing, and posting
2423 public financial information on the public finance website; and

2424 (b) may make rules governing when a qualifying entity is required to disclose an
2425 expenditure made by a person under contract with the qualifying entity, including the form and
2426 content of the disclosure.

2427 (10) The rules made under Subsection (9) shall only require a URS-participating
2428 employer to provide employee compensation information for each fiscal year ending on or after
2429 June 30, 2022:

2430 (a) to the state auditor for posting on the public finance website; or

2431 (b) (i) through the URS-participating employer's own website; and

2432 (ii) via a link to the website described in Subsection (10)(b)(i), submitted to the state
2433 auditor for posting on the public finance website.

2434 Section 54. Section **67-19a-101** is amended to read:

2435 **67-19a-101. Definitions.**

2436 As used in this chapter:

2437 (1) "Abusive conduct" means the same as that term is defined in Section [67-26-102](#).

2438 (2) "Administrator" means the person appointed under Section [67-19a-201](#) to head the
2439 Career Service Review Office.

2440 (3) "Career service employee" means a person employed in career service as defined in
2441 Section [~~67-19-3~~] [63A-17-102](#).

2442 (4) "Division" means the Division of Human Resource Management.

2443 (5) "Employer" means the state of Utah and all supervisory personnel vested with the
2444 authority to implement and administer the policies of an agency.

2445 (6) "Excusable neglect" means harmless error, mistake, inadvertence, surprise, a failure

2446 to discover evidence that, through due diligence, could not have been discovered in time to
2447 meet the applicable time period, misrepresentation or misconduct by the employer, or any other
2448 reason justifying equitable relief.

2449 (7) "Grievance" means:

2450 (a) a complaint by a career service employee concerning any matter touching upon the
2451 relationship between the employee and the employer;

2452 (b) any dispute between a career service employee and the employer;

2453 (c) a complaint by a reporting employee that a public entity has engaged in retaliatory
2454 action against the reporting employee; and

2455 (d) a complaint that the employer subjected the employee to conditions that a
2456 reasonable person would consider intolerable, including abusive conduct.

2457 (8) "Office" means the Career Service Review Office created under Section
2458 67-19a-201.

2459 (9) "Public entity" means the same as that term is defined in Section 67-21-2.

2460 (10) "Reporting employee" means an employee of a public entity who alleges that the
2461 public entity engaged in retaliatory action against the employee.

2462 (11) "Retaliatory action" means to do any of the following to an employee in violation
2463 of Section 67-21-3:

2464 (a) dismiss the employee;

2465 (b) reduce the employee's compensation;

2466 (c) fail to increase the employee's compensation by an amount that the employee is
2467 otherwise entitled to or was promised;

2468 (d) fail to promote the employee if the employee would have otherwise been promoted;

2469 or

2470 (e) threaten to take an action described in Subsections (11)(a) through (d).

2471 (12) "Supervisor" means the person:

2472 (a) to whom an employee reports; or

2473 (b) who assigns and oversees an employee's work.

2474 Section 55. Section 67-27-101 is enacted to read:

2475 **CHAPTER 27. GENERAL REQUIREMENTS FOR STATE OFFICERS AND**
2476 **EMPLOYEES**

2477 **67-27-101. Title**

2478 This chapter is known as "General Requirements for State Officers and Employees."

2479 Section 56. Section **67-27-102**, which is renumbered from Section 63A-17-901 is
2480 renumbered and amended to read:

2481 **~~63A-17-901~~.** **67-27-102. Definitions.**

2482 As used in this [part] chapter:

2483 (1) "Career service employee" means the same as that term is defined in Section
2484 [63A-17-102](#).

2485 (2) "Executive branch elected official" means:

2486 (a) the governor;

2487 (b) the lieutenant governor;

2488 (c) the attorney general;

2489 (d) the state treasurer; or

2490 (e) the state auditor.

2491 (3) "Executive branch official" means an individual who:

2492 (a) is a management level employee of an executive branch elected official; and

2493 (b) is not a career service employee.

2494 (4) "State agency" means a department, division, board, council, committee, institution,
2495 office, bureau, or other similar administrative unit of the executive branch of state government.

2496 Section 57. Section **67-27-103**, which is renumbered from Section 63A-17-902 is
2497 renumbered and amended to read:

2498 **~~63A-17-902~~.** **67-27-103. State agency work week.**

2499 (1) Except as provided in Subsection (2), and subject to Subsection (3):

2500 (a) a state agency with five or more employees shall, at least nine hours per day on

2501 Monday, Tuesday, Wednesday, Thursday, and Friday to provide a service required by statute to
2502 another entity of the state, a political subdivision, or the public:

2503 (i) in person;

2504 (ii) online; or

2505 (iii) by telephone; and

2506 (b) a state agency with fewer than five employees shall, at least eight hours per day on

2507 Monday, Tuesday, Wednesday, Thursday, and Friday, provide a service required by statute to

2508 another entity of the state, a political subdivision, or the public:

- 2509 (i) in person;
- 2510 (ii) online; or
- 2511 (iii) by telephone.

2512 (2) (a) Subsection (1) does not require a state agency to operate a physical location, or
2513 provide a service, on a holiday established under Section [63G-1-301](#).

2514 (b) Except for a legal holiday established under Section [63G-1-301](#), the following state
2515 agencies shall operate at least one physical location, and as many physical locations as
2516 necessary, at least nine hours per day on Monday, Tuesday, Wednesday, Thursday, and Friday
2517 to provide a service required by statute to another entity of the state, a political subdivision, or
2518 the public:

- 2519 (i) the Division of Technology Services, created in Section [63A-16-103](#);
- 2520 (ii) the Division of Child and Family Services, created in Section [62A-4a-103](#); and
- 2521 (iii) the Office of Guardian Ad Litem, created in Section [78A-2-802](#).

2522 (3) A state agency shall make staff available, as necessary, to provide:

2523 (a) services incidental to a court or administrative proceeding, during the hours of
2524 operation of a court or administrative body, including:

- 2525 (i) testifying;
- 2526 (ii) the production of records or evidence; and
- 2527 (iii) other services normally available to a court or administrative body;

2528 (b) security services; and

2529 (c) emergency services.

2530 (4) This section does not limit the days or hours a state agency may operate.

2531 (5) To provide a service as required by Subsection (1), the chief administrative officer
2532 of a state agency may determine:

2533 (a) the number of physical locations, if any are required by this section, operating each
2534 day;

2535 (b) the daily hours of operation of a physical location;

2536 (c) the number of state agency employees who work per day; and

2537 (d) the hours a state agency employee works per day.

2538 (6) To provide a service as required by Subsection (2)(b), the chief administrative

2539 officer of a state agency, or a person otherwise designated by law, may determine:

2540 (a) the number of physical locations operating each day;

2541 (b) the daily hours of operation, as required by Subsection (2)(b), of each physical
2542 location;

2543 (c) the number of state agency employees who work per day; and

2544 (d) the hours a state agency employee works per day.

2545 (7) A state agency shall:

2546 (a) provide information, accessible from a conspicuous link on the home page of the
2547 state agency's website, on a method that a person may use to schedule an in-person meeting
2548 with a representative of the state agency; and

2549 (b) except as provided in Subsection (8), as soon as reasonably possible:

2550 (i) contact a person who makes a request for an in-person meeting; and

2551 (ii) when appropriate, schedule and hold an in-person meeting with the person that
2552 requests an in-person meeting.

2553 (8) A state agency is not required to comply with Subsection (7)(b) to the extent that
2554 the contact or meeting:

2555 (a) would constitute a conflict of interest;

2556 (b) would conflict or interfere with a procurement governed by Title 63G, Chapter 6a,
2557 Utah Procurement Code;

2558 (c) would violate an ethical requirement of the state agency or an employee of the state
2559 agency; or

2560 (d) would constitute a violation of law.

2561 Section 58. Section **67-27-104**, which is renumbered from Section 63A-17-903 is
2562 renumbered and amended to read:

2563 ~~**[63A-17-903].**~~ **67-27-104. Restrictions on outside employment by executive**
2564 **branch employees.**

2565 (1) An employee who is under the direction or control of an executive branch elected
2566 official may not engage in outside employment that:

2567 (a) constitutes a conflict of interest;

2568 (b) interferes with the ability of the employee to fulfill the employee's job
2569 responsibilities;

2570 (c) constitutes the provision of political services, political consultation, or lobbying;

2571 (d) involves the provision of consulting services, legal services, or other services to a
2572 person that the employee could, within the course and scope of the employee's primary
2573 employment, provide to the person; or

2574 (e) interferes with the hours that the employee is expected to perform work under the
2575 direction or control of an executive branch elected official, unless the employee takes
2576 authorized personal leave during the time that the person engages in the outside employment.

2577 (2) An executive branch official shall be subject to the same restrictions on outside
2578 employment as a career service employee.

2579 (3) This section does not prohibit an employee from advocating the position of the
2580 state office that employs the employee regarding legislative action or other government action.

2581 **Section 59. Repealer.**

2582 This bill repeals:

2583 Section **63A-16-106, Offices within the division -- Administration.**

2584 Section **63A-16-212, Agency services -- Chief information officer manages.**

2585 Section **63A-16-213, Duties of the division -- Agency services.**

2586 Section **63A-16-401, Definitions.**

2587 Section **63A-16-402, Enterprise technology -- Chief information officer manages.**

2588 Section **63A-16-403, Duties of the division -- Enterprise technology.**

2589 Section **63A-16-502, Office of Integrated Technology.**

2590 Section **63A-16-503, Duties of the division -- Integrated technology.**

2591 **Section 60. Effective date.**

2592 This bill takes effect on May 4, 2022, except that Section **63I-5-201** (Effective
2593 07/01/22) takes effect on July 1, 2022.