

SB0211S01 compared with SB0211

~~text~~ shows text that was in SB0211 but was deleted in SB0211S01.

text shows text that was not in SB0211 but was inserted into SB0211S01.

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Senator J. Stuart Adams proposes the following substitute bill:

GENERATIONAL WATER INFRASTRUCTURE AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: {}J. Stuart Adams

House Sponsor: {_____} Mike Schultz

LONG TITLE

General Description:

This bill addresses the development of water resources.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ directs the creation of the Water District Water Development Council (council) under the Interlocal Cooperation Act;
- ▶ outlines restrictions on the council;
- ▶ provides for the powers and duties of the council;
- ▶ requires reporting by the council;
- ▶ requires consultation by the council;
- ▶ provides for access to documents of state or local agencies;

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- ▶ amends provisions related to meetings and records of the council;
- ▶ addresses the powers and duties of the Board of Water Resources and the Division of Water Resources;
- ▶ addresses expenditures from the Water Infrastructure Restricted Account;
- ▶ provides for the appointment of the Utah water agent (water agent);
- ▶ provides for the powers and duties of the water agent;
- ▶ requires reporting by the water agent;
- ▶ requires consultation by the water agent;
- ▶ addresses negotiations of the water agent;
- ▶ amends provisions related to procurement and records of the water agent;
- ▶ addresses access to documents of state or local agencies;
- ▶ includes a sunset date regarding the water agent; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2025:

- ▶ to Governor's Office - Utah Water Agent - Utah Water Agent as a one-time appropriation:
 - from the General Fund, One-time, \$3,000,000
- ▶ to Governor's Office - Utah Water Agent - Utah Water Agent as an ongoing appropriation:
 - from the General Fund, \$1,000,000

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 52-4-103**, as last amended by Laws of Utah 2023, Chapters 139, 374 and 457
- 63G-2-103**, as last amended by Laws of Utah 2023, Chapters 16, 173, 231, and 516
- 63G-2-305**, as last amended by Laws of Utah 2023, Chapters 1, 16, 205, and 329
- 63G-6a-107.6**, as last amended by Laws of Utah 2021, Chapter 179
- 63I-1-273**, as last amended by Laws of Utah 2023, Chapters 205, 261
- 67-22-2**, as last amended by Laws of Utah 2023, Chapter 205

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73-10-3, as last amended by Laws of Utah 2023, Chapter 140

73-10-4, as last amended by Laws of Utah 2023, Chapter 140

73-10-18, as last amended by Laws of Utah 2023, Chapter 140

73-10g-104, as last amended by Laws of Utah 2023, Chapter 261

ENACTS:

11-13-228, Utah Code Annotated 1953

73-10g-601, Utah Code Annotated 1953

73-10g-602, Utah Code Annotated 1953

73-10g-603, Utah Code Annotated 1953

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

Section 1. Section 11-13-228 is enacted to read:

11-13-228. Water District Water Development Council.

(1) As used in this section:

(a) "Council" means the Water District Water Development Council created pursuant to this section.

(b) "Division" means the Division of Water Resources.

(c) "Generational" means sufficient to meet anticipated demand for 50 to 75 years.

(d) "Generational water infrastructure" means physical facilities or other physical assets designed to meet generational demands for water.

(e) "State or local entity" means:

(i) a department, division, commission, agency, or other instrumentality of state government; or

(ii) a political subdivision or the political subdivision's instrumentalities.

(f) "Water agent" means the Utah water agent appointed by the governor under Section 73-10g-602.

(g) "Water conservancy district" means an entity formed under Title 17B, Chapter 2a, Part 10, Water Conservancy District Act.

(2) (a) Subject to the provisions of this part, the four largest water conservancy districts in the state based on operating budgets shall enter into an agreement with one another and the division to form the Water District Water Development Council as a joint administrator of a

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joint or cooperative undertaking.

(b) The members of the council shall consist of:

(i) the general manager or the general manager's designee for each of the water conservancy districts described in Subsection (2)(a); and

(ii) the director of the division, who will represent the needs of the portions of the state that are not served by the water conservancy districts in the agreement.

(c) Members of the council may not receive compensation, per diem, or expenses for service on the council.

(d) The council shall appoint a director to manage operations of the council. The council shall set the salary for the director and the director serves at the pleasure of the council.

(e) The council shall establish and maintain office space and staff for the council and the water agent. The water conservancy districts that enter into the agreement shall pay the costs of the office space and staff that are directly related to the activities of the council, including staff from a water conservancy district that is assigned to work with the council, except that, to the extent appropriated by the Legislature, the state shall pay the costs of the water agent and any costs for non-district staff hired to solely work for the council or water agent.

(3) (a) The council may not own or operate water infrastructure, but may advise a water conservancy district that enters into the agreement about the development of generational water infrastructure by a water conservancy district.

(b) For the generational water needs of the citizens of Utah and within the authorities given to the water conservancy districts represented on the council in Title 17B, Chapter 2a, Part 10, Water Conservancy District Act, the council shall jointly plan for generational water infrastructure and advance the responsible development of water within the jurisdiction of the water conservancy districts represented on the council to address water users' generational need for adequate and reliable water supplies, including:

(i) assessing generational water needs based on population growth and economic development;

(ii) identifying possible sources to meet the generational water needs;

(iii) exploring physical interconnections and joint operations of generational water infrastructure that exist as of May 1, 2024, and into the future;

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(iv) assessing water conservation as a component of generational water supplies and environmental conservation efforts;

(v) scoping solutions to determine the most viable pathways for meeting generational water needs;

(vi) collecting and analyzing data necessary to make informed decisions regarding generational water needs;

(vii) coordinating with other water suppliers within the state as needed;

(viii) making recommendations to the Legislature regarding projects, funding, and policy changes to provide for generational water needs; and

(ix) annually reporting findings and recommendations to:

(A) the governor;

(B) the president of the Senate;

(C) the speaker of the House of Representatives;

(D) the Legislative Water Development Commission created by Section 73-27-102;

(E) the Natural Resources, Agriculture, and Environment Interim Committee; and

(F) the Water Development Coordinating Council created by Sections 79-2-201 and 73-10c-3.

(c) The council shall coordinate with the division regarding the need for generational water infrastructure and how to meet that need and, as part of this coordination the council shall assist the division in the division's development of a state water plan under Section 73-10-15.

(d) The council shall receive input from and coordinate with the water agent.

(e) The council may not levy, assess, or collect ad valorem property taxes or issue bonds.

(f) The council shall adopt policies for procurement that enable the council to efficiently fulfill the council's responsibilities under the agreement.

(g) The council is advisory and may not establish policy for the state.

(h) The council does not control money used to fund water infrastructure.

(4) Subject to Title 63G, Chapter 2, Government Records Access and Management Act, upon request of the council, a state or local entity shall provide to the water agent a document, report, or information available within the state or local entity.

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(5) Nothing in this section restricts the ability of a water conservancy district to contract under Subsection 17B-2a-1004(2).

Section 2. Section **52-4-103** is amended to read:

52-4-103. Definitions.

As used in this chapter:

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

- (a) an electronic meeting originates; or
- (b) the participants are connected.

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

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

(b) "Convening" does not include the initiation of a routine conversation between members of a board of trustees of a large public transit district if the members involved in the conversation do not, during the conversation, take a tentative or final vote on the matter that is the subject of the conversation.

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

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

- (a) electronic mail;
- (b) instant messaging;
- (c) electronic chat;

(d) text messaging, which means a communication in the form of electronic text or one or more electronic images sent by the actor from a telephone, computer, or other electronic communication device to another person's telephone, computer, or electronic communication device by addressing the communication to the person's telephone number or other electronic communication access code or number; or

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

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(6) "Fiduciary or commercial information" means information:

(a) related to any subject if disclosure:

(i) would conflict with a fiduciary obligation; or

(ii) is prohibited by insider trading provisions; or

(b) that is commercial in nature including:

(i) account owners or borrowers;

(ii) demographic data;

(iii) contracts and related payments;

(iv) negotiations;

(v) proposals or bids;

(vi) investments;

(vii) management of funds;

(viii) fees and charges;

(ix) plan and program design;

(x) investment options and underlying investments offered to account owners;

(xi) marketing and outreach efforts;

(xii) financial plans; or

(xiii) reviews and audits excluding the final report required under Section 53B-8a-111.

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

(b) "Meeting" does not mean:

(i) a chance gathering or social gathering;

(ii) a convening of the State Tax Commission to consider a confidential tax matter in accordance with Section 59-1-405; or

(iii) a convening of a three-member board of trustees of a large public transit district as defined in Section 17B-2a-802 if:

(A) the board members do not, during the conversation, take a tentative or final vote on the matter that is the subject of the conversation; or

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(B) the conversation pertains only to day-to-day management and operation of the public transit district.

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

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

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

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

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

(8) "Monitor" means to hear or observe, live, by audio or video equipment, all of the public statements of each member of the public body who is participating in a meeting.

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

(10) (a) "Public body" means:

(i) any administrative, advisory, executive, or legislative body of the state or its political subdivisions that:

(A) is created by the Utah Constitution, statute, rule, ordinance, or resolution;

(B) consists of two or more persons;

(C) expends, disburses, or is supported in whole or in part by tax revenue; and

(D) is vested with the authority to make decisions regarding the public's business; or

(ii) any administrative, advisory, executive, or policymaking body of an association, as that term is defined in Section 53G-7-1101, that:

(A) consists of two or more persons;

(B) expends, disburses, or is supported in whole or in part by dues paid by a public school or whose employees participate in a benefit or program described in Title 49, Utah State Retirement and Insurance Benefit Act; and

(C) is vested with authority to make decisions regarding the participation of a public school or student in an interscholastic activity, as that term is defined in Section 53G-7-1101.

(b) "Public body" includes:

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(i) an interlocal entity or joint or cooperative undertaking, as those terms are defined in Section 11-13-103, except for the Water District Water Development Council created pursuant to Section 11-13-228;

(ii) a governmental nonprofit corporation as that term is defined in Section 11-13a-102;

(iii) the Utah Independent Redistricting Commission; and

(iv) a project entity, as that term is defined in Section 11-13-103.

(c) "Public body" does not include:

(i) a political party, a political group, or a political caucus;

(ii) a conference committee, a rules committee, or a sifting committee of the Legislature;

(iii) a school community council or charter trust land council, as that term is defined in Section 53G-7-1203;

(iv) a taxed interlocal entity, as that term is defined in Section 11-13-602, if the taxed interlocal entity is not a project entity; or

(v) the following Legislative Management subcommittees, which are established in Section 36-12-8, when meeting for the purpose of selecting or evaluating a candidate to recommend for employment, except that the meeting in which a subcommittee votes to recommend that a candidate be employed shall be subject to the provisions of this act:

(A) the Research and General Counsel Subcommittee;

(B) the Budget Subcommittee; and

(C) the Audit Subcommittee.

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

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

(b) "Quorum" does not include a meeting of two elected officials by themselves when no action, either formal or informal, is taken.

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

(14) "Specified body":

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

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- (i) is not a public body;
- (ii) consists of three or more members; and
- (iii) includes at least one member who is:
 - (A) a legislator; and
 - (B) officially appointed to the body by the president of the Senate, speaker of the House of Representatives, or governor; and
- (b) does not include a body listed in Subsection (10)(c)(ii) or (10)(c)(v).
- (15) "Transmit" means to send, convey, or communicate an electronic message by electronic means.

Section 3. Section **63G-2-103** is amended to read:

63G-2-103. Definitions.

As used in this chapter:

- (1) "Audit" means:
 - (a) a systematic examination of financial, management, program, and related records for the purpose of determining the fair presentation of financial statements, adequacy of internal controls, or compliance with laws and regulations; or
 - (b) a systematic examination of program procedures and operations for the purpose of determining their effectiveness, economy, efficiency, and compliance with statutes and regulations.
- (2) "Chronological logs" mean the regular and customary summary records of law enforcement agencies and other public safety agencies that show:
 - (a) the time and general nature of police, fire, and paramedic calls made to the agency; and
 - (b) any arrests or jail bookings made by the agency.
- (3) "Classification," "classify," and their derivative forms mean determining whether a record series, record, or information within a record is public, private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).
- (4) (a) "Computer program" means:
 - (i) a series of instructions or statements that permit the functioning of a computer system in a manner designed to provide storage, retrieval, and manipulation of data from the computer system; and

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

(b) "Computer program" does not mean:

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

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

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

(5) (a) "Contractor" means:

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

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

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

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

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

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

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

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

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

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

(ii) the resultant gaseous pressures are capable of:

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(A) producing destructive effects on contiguous objects; or

(B) causing death or serious bodily injury.

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

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

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

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

(iii) courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

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

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

(b) "Governmental entity" also means:

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

(ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative undertaking, except for the Water District Water Development Council created pursuant to Section 11-13-228;

(iii) as defined in Section 11-13a-102, a governmental nonprofit corporation;

(iv) an association as defined in Section 53G-7-1101;

(v) the Utah Independent Redistricting Commission; and

(vi) a law enforcement agency, as defined in Section 53-1-102, that employs one or more law enforcement officers, as defined in Section 53-13-103.

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

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

(13) "Individual" means a human being.

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

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

(ii) names of victims;

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

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

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

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

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

(c) Initial contact reports do not include accident reports, as that term is described in Title 41, Chapter 6a, Part 4, Accident Responsibilities.

(15) "Legislative body" means the Legislature.

(16) "Notice of compliance" means a statement confirming that a governmental entity has complied with an order of the State Records Committee.

(17) "Person" means:

(a) an individual;

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- (b) a nonprofit or profit corporation;
- (c) a partnership;
- (d) a sole proprietorship;
- (e) other type of business organization; or
- (f) any combination acting in concert with one another.

(18) "Personal identifying information" means the same as that term is defined in Section 63A-12-100.5.

(19) "Privacy annotation" means the same as that term is defined in Section 63A-12-100.5.

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

(21) "Private record" means a record containing data on individuals that is private as provided by Section 63G-2-302.

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

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

(24) "Reasonable search" means a search that is:

- (a) reasonable in scope and intensity; and
- (b) not unreasonably burdensome for the government entity.

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

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

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

(b) "Record" does not mean:

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

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

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- (B) that is unrelated to the conduct of the public's business;
- (ii) a temporary draft or similar material prepared for the originator's personal use or prepared by the originator for the personal use of an individual for whom the originator is working;
- (iii) material that is legally owned by an individual in the individual's private capacity;
- (iv) material to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by a governmental entity or political subdivision;
- (v) proprietary software;
- (vi) junk mail or a commercial publication received by a governmental entity or an official or employee of a governmental entity;
- (vii) a book that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public;
- (viii) material that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public, regardless of physical form or characteristics of the material;
- (ix) a daily calendar or other personal note prepared by the originator for the originator's personal use or for the personal use of an individual for whom the originator is working;
- (x) a computer program that is developed or purchased by or for any governmental entity for its own use;
- (xi) a note or internal memorandum prepared as part of the deliberative process by:
 - (A) a member of the judiciary;
 - (B) an administrative law judge;
 - (C) a member of the Board of Pardons and Parole; or
 - (D) a member of any other body, other than an association or appeals panel as defined in Section 53G-7-1101, charged by law with performing a quasi-judicial function;
- (xii) a telephone number or similar code used to access a mobile communication device that is used by an employee or officer of a governmental entity, provided that the employee or officer of the governmental entity has designated at least one business telephone number that is a public record as provided in Section 63G-2-301;
- (xiii) information provided by the Public Employees' Benefit and Insurance Program, created in Section 49-20-103, to a county to enable the county to calculate the amount to be

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paid to a health care provider under Subsection 17-50-319(2)(e)(ii);

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

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

(xvi) child sexual abuse material, as defined by Section 76-5b-103;

(xvii) before final disposition of an ethics complaint occurs, a video or audio recording of the closed portion of a meeting or hearing of:

(A) a Senate or House Ethics Committee;

(B) the Independent Legislative Ethics Commission;

(C) the Independent Executive Branch Ethics Commission, created in Section 63A-14-202; or

(D) the Political Subdivisions Ethics Review Commission established in Section 63A-15-201; or

(xviii) confidential communication described in Section 58-60-102, 58-61-102, or 58-61-702.

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

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

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

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

(a) conducted:

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

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

(b) funded or otherwise supported by an external:

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

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

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

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

(32) "State Records Committee" means the State Records Committee created in Section 63G-2-501.

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

Section 4. Section **63G-2-305** is amended to read:

63G-2-305. Protected records.

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

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

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

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

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

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

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

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

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

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

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

- (i) an invitation for bids;
- (ii) a request for proposals;
- (iii) a request for quotes;
- (iv) a grant; or
- (v) other similar document; or

(b) an unsolicited proposal, as defined in Section 63G-6a-712;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the

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governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

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

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

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

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

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

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

(d) reasonably could be expected to disclose the identity of a source who is not

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generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

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

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

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

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

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Health and Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

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

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

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

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

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

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of

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legislative action or policy may not be classified as protected under this section; and

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

(A) members of a legislative body;

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

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

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

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

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

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

(22) drafts, unless otherwise classified as public;

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

(a) collective bargaining; or

(b) imminent or pending litigation;

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

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

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of

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valuable historic, scientific, educational, or cultural information;

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

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

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

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

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

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

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

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

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the

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person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

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

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

(a) the donor requests anonymity in writing;

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

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

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

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

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

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

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

(II) a sponsor of sponsored research;

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- (iii) unpublished manuscripts;
- (iv) creative works in process;
- (v) scholarly correspondence; and
- (vi) confidential information contained in research proposals;
- (b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and
- (c) Subsection (40)(a) may not be construed to affect the ownership of a record;
- (41) (a) records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and
 - (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;
- (42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:
 - (a) a production facility; or
 - (b) a magazine;
- (43) information contained in the statewide database of the Division of Aging and Adult Services created by Section 26B-6-210;
- (44) information contained in the Licensing Information System described in Title 80, Chapter 2, Child Welfare Services;
- (45) information regarding National Guard operations or activities in support of the National Guard's federal mission;
- (46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;
- (47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;
- (48) except to the extent that the record is exempt from this chapter pursuant to Section

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63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

- (a) the safety of the general public; or
- (b) the security of:
 - (i) governmental property;
 - (ii) governmental programs; or
 - (iii) the property of a private person who provides the Division of Emergency

Management information;

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

(50) as provided in Section 26B-2-408:

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

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

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

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

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

- (i) the nature of the law, ordinance, rule, or order; and
- (ii) the individual complying with the law, ordinance, rule, or order;

(52) the portion of the following documents that contains a candidate's residential or mailing address, if the candidate provides to the filing officer another address or phone number

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where the candidate may be contacted:

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

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

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

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

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

(b) conducted using animals;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote, in relation to whether a judge meets or exceeds minimum performance standards under Subsection 78A-12-203(4), and information disclosed under Subsection 78A-12-203(5)(e);

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

(56) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63L-11-202;

(57) information requested by and provided to the 911 Division under Section 63H-7a-302;

(58) in accordance with Section 73-10-33:

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

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

(59) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

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

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

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

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

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

(60) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health and Human Services, to discover Medicaid fraud, waste, or abuse;

(61) information provided to the Department of Health and Human Services or the Division of Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections 58-68-304(3) and (4);

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

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

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

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

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

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

(65) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Section 26B-2-101, except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording;

(66) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist;

(67) an audio recording that is:

(a) produced by an audio recording device that is used in conjunction with a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition;

(b) produced during an emergency event when an individual employed to provide law enforcement, fire protection, paramedic, emergency medical, or other first responder service:

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

(ii) uses a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition; and

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(c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation;

(68) records submitted by or prepared in relation to an applicant seeking a recommendation by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an employment position with the Legislature;

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

(70) a record made available to Adult Protective Services or a law enforcement agency under Section 61-1-206;

(71) a record submitted to the Insurance Department in accordance with Section 31A-37-201;

(72) a record described in Section 31A-37-503;

(73) any record created by the Division of Professional Licensing as a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii);

(74) a record described in Section 72-16-306 that relates to the reporting of an injury involving an amusement ride;

(75) except as provided in Subsection 63G-2-305.5(1), the signature of an individual on a political petition, or on a request to withdraw a signature from a political petition, including a petition or request described in the following titles:

(a) Title 10, Utah Municipal Code;

(b) Title 17, Counties;

(c) Title 17B, Limited Purpose Local Government Entities - Special Districts;

(d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and

(e) Title 20A, Election Code;

(76) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in a voter registration record;

(77) except as provided in Subsection 63G-2-305.5(3), any signature, other than a signature described in Subsection (75) or (76), in the custody of the lieutenant governor or a local political subdivision collected or held under, or in relation to, Title 20A, Election Code;

(78) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part 5, Victims Guidelines for Prosecutors Act;

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(79) a record submitted to the Insurance Department under Section 31A-48-103;

(80) personal information, as defined in Section 63G-26-102, to the extent disclosure is prohibited under Section 63G-26-103;

(81) an image taken of an individual during the process of booking the individual into jail, unless:

(a) the individual is convicted of a criminal offense based upon the conduct for which the individual was incarcerated at the time the image was taken;

(b) a law enforcement agency releases or disseminates the image:

(i) after determining that the individual is a fugitive or an imminent threat to an individual or to public safety and releasing or disseminating the image will assist in apprehending the individual or reducing or eliminating the threat; or

(ii) to a potential witness or other individual with direct knowledge of events relevant to a criminal investigation or criminal proceeding for the purpose of identifying or locating an individual in connection with the criminal investigation or criminal proceeding; or

(c) a judge orders the release or dissemination of the image based on a finding that the release or dissemination is in furtherance of a legitimate law enforcement interest;

(82) a record:

(a) concerning an interstate claim to the use of waters in the Colorado River system;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a representative from another state or the federal government as provided in Section 63M-14-205; and

(c) the disclosure of which would:

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

(ii) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or

(iii) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system;

(83) any part of an application described in Section 63N-16-201 that the Governor's Office of Economic Opportunity determines is nonpublic, confidential information that if

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disclosed would result in actual economic harm to the applicant, but this Subsection (83) may not be used to restrict access to a record evidencing a final contract or approval decision;

(84) the following records of a drinking water or wastewater facility:

(a) an engineering or architectural drawing of the drinking water or wastewater facility;

and

(b) except as provided in Section 63G-2-106, a record detailing tools or processes the drinking water or wastewater facility uses to secure, or prohibit access to, the records described in Subsection (84)(a);

(85) a statement that an employee of a governmental entity provides to the governmental entity as part of the governmental entity's personnel or administrative investigation into potential misconduct involving the employee if the governmental entity:

(a) requires the statement under threat of employment disciplinary action, including possible termination of employment, for the employee's refusal to provide the statement; and

(b) provides the employee assurance that the statement cannot be used against the employee in any criminal proceeding;

(86) any part of an application for a Utah Fits All Scholarship account described in Section 53F-6-402 or other information identifying a scholarship student as defined in Section 53F-6-401; ~~and~~

(87) a record:

(a) concerning a claim to the use of waters in the Great Salt Lake;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a person concerning the claim, including a representative from another state or the federal government; and

(c) the disclosure of which would:

(i) reveal a legal strategy relating to the state's claim to the use of the water in the Great Salt Lake;

(ii) harm the ability of the Great Salt Lake commissioner to negotiate the best terms and conditions regarding the use of water in the Great Salt Lake; or

(iii) give an advantage to another person including another state or to the federal government in negotiations regarding the use of water in the Great Salt Lake~~[-]; and~~

(88) a record of the Utah water agent, appointed under Section 73-10g-602:

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(a) concerning a claim to the use of waters;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a representative from another state, a tribe, the federal government, or other government entity as provided in Title 73, Chapter 10g, Part 6, Utah Water Agent; and

(c) the disclosure of which would:

(i) reveal a legal strategy relating to the state's claim to the use of the water;

(ii) harm the ability of the Utah water agent to negotiate the best terms and conditions regarding the use of water; or

(iii) give an advantage to another state, a tribe, the federal government, or other government entity in negotiations regarding the use of water.

Section 5. Section **63G-6a-107.6** is amended to read:

63G-6a-107.6. Exemptions from chapter.

(1) Except for this Subsection (1), the provisions of this chapter do not apply to:

(a) a public entity's acquisition of a procurement item from another public entity; or

(b) a public entity that is not a procurement unit, including the Colorado River Authority of Utah as provided in Section 63M-14-210.

(2) Unless otherwise provided by statute and except for this Subsection (2), the provisions of this chapter do not apply to the acquisition or disposal of real property or an interest in real property.

(3) Except for this Subsection (3) and Part 24, Unlawful Conduct and Penalties, the provisions of this chapter do not apply to:

(a) funds administered under the Percent-for-Art Program of the Utah Percent-for-Art Act;

(b) a grant;

(c) medical supplies or medical equipment, including service agreements for medical equipment, obtained by the University of Utah Hospital through a purchasing consortium if:

(i) the consortium uses a competitive procurement process; and

(ii) the chief administrative officer of the hospital makes a written finding that the prices for purchasing medical supplies and medical equipment through the consortium are competitive with market prices;

(d) the purchase of firefighting supplies or equipment by the Division of Forestry, Fire,

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and State Lands, created in Section 65A-1-4, through the federal General Services Administration or the National Fire Cache system;

(e) supplies purchased for resale to the public; ~~[or]~~

(f) activities related to the management of investments by a public entity granted investment authority by law~~[-];~~ or

(g) activities of the Utah water agent appointed under Section 73-10g-602.

(4) This chapter does not supersede the requirements for retention or withholding of construction proceeds and release of construction proceeds as provided in Section 13-8-5.

(5) Except for this Subsection (5), the provisions of this chapter do not apply to a procurement unit's hiring a mediator, arbitrator, or arbitration panel member to participate in the procurement unit's dispute resolution efforts.

Section 6. Section **63I-1-273** is amended to read:

63I-1-273. Repeal dates: Title 73.

(1) Title 73, Chapter 27, Legislative Water Development Commission, is repealed January 1, 2031.

(2) Title 73, Chapter 10g, Part 2, Agricultural Water Optimization, is repealed July 1, 2028.

(3) Title 73, Chapter 10g, Part 6, Utah Water Agent, is repealed July 1, 2034.

~~[(3)]~~ (4) Section 73-18-3.5, which authorizes the Division of Outdoor Recreation to appoint an advisory council that includes in the advisory council's duties advising on boating policies, is repealed July 1, 2024.

~~[(4)]~~ (5) In relation to Title 73, Chapter 31, Water Banking Act, on December 31, 2030:

(a) Subsection 73-1-4(2)(e)(xi) is repealed;

(b) Subsection 73-10-4(1)(h) is repealed; and

(c) Title 73, Chapter 31, Water Banking Act, is repealed.

~~[(5)]~~ (6) Sections 73-32-302 and 73-32-303, related to the Great Salt Lake Advisory Council, are repealed July 1, 2027.

Section 7. Section **67-22-2** is amended to read:

67-22-2. Compensation -- Other state officers.

(1) As used in this section:

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(a) "Appointed executive" means the:

- (i) commissioner of the Department of Agriculture and Food;
- (ii) commissioner of the Insurance Department;
- (iii) commissioner of the Labor Commission;
- (iv) director, Department of Alcoholic Beverage Services;
- (v) commissioner of the Department of Financial Institutions;
- (vi) executive director, Department of Commerce;
- (vii) executive director, Commission on Criminal and Juvenile Justice;
- (viii) adjutant general;
- (ix) executive director, Department of Cultural and Community Engagement;
- (x) executive director, Department of Corrections;
- (xi) commissioner, Department of Public Safety;
- (xii) executive director, Department of Natural Resources;
- (xiii) executive director, Governor's Office of Planning and Budget;
- (xiv) executive director, Department of Government Operations;
- (xv) executive director, Department of Environmental Quality;
- (xvi) executive director, Governor's Office of Economic Opportunity;
- (xvii) executive director, Department of Workforce Services;
- (xviii) executive director, Department of Health, Nonphysician;
- (xix) executive director, Department of Human Services;
- (xx) executive director, Department of Transportation;
- (xxi) executive director, Department of Veterans and Military Affairs;
- (xxii) executive director, Public Lands Policy Coordinating Office, created in Section

63L-11-201; ~~and~~

(xxiii) Great Salt Lake commissioner, appointed under Section 73-32-201[-]; and

(xxiv) Utah water agent, appointed under Section 73-10g-602.

(b) "Board or commission executive" means:

- (i) members, Board of Pardons and Parole;
- (ii) chair, State Tax Commission;
- (iii) commissioners, State Tax Commission;
- (iv) executive director, State Tax Commission;

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(v) chair, Public Service Commission; and

(vi) commissioners, Public Service Commission.

(c) "Deputy" means the person who acts as the appointed executive's second in command as determined by the Division of Human Resource Management.

(2) (a) The director of the Division of Human Resource Management shall:

(i) before October 31 of each year, recommend to the governor a compensation plan for the appointed executives and the board or commission executives; and

(ii) base those recommendations on market salary studies conducted by the Division of Human Resource Management.

(b) (i) The Division of Human Resource Management shall determine the salary range for the appointed executives by:

(A) identifying the salary range assigned to the appointed executive's deputy;

(B) designating the lowest minimum salary from those deputies' salary ranges as the minimum salary for the appointed executives' salary range; and

(C) designating 105% of the highest maximum salary range from those deputies' salary ranges as the maximum salary for the appointed executives' salary range.

(ii) If the deputy is a medical doctor, the Division of Human Resource Management may not consider that deputy's salary range in designating the salary range for appointed executives.

(c) (i) Except as provided in Subsection (2)(c)(ii), in establishing the salary ranges for board or commission executives, the Division of Human Resource Management shall set the maximum salary in the salary range for each of those positions at 90% of the salary for district judges as established in the annual appropriation act under Section 67-8-2.

(ii) In establishing the salary ranges for an individual described in Subsection (1)(b)(ii) or (iii), the Division of Human Resource Management shall set the maximum salary in the salary range for each of those positions at 100% of the salary for district judges as established in the annual appropriation act under Section 67-8-2.

(3) (a) (i) Except as provided in Subsection (3)(a)(ii) or Subsection (3)(d), the governor shall establish a specific salary for each appointed executive within the range established under Subsection (2)(b).

(ii) If the executive director of the Department of Health is a physician, the governor

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shall establish a salary within the highest physician salary range established by the Division of Human Resource Management.

(iii) The governor may provide salary increases for appointed executives within the range established by Subsection (2)(b) and identified in Subsection (3)(a)(ii).

(b) The governor shall apply the same overtime regulations applicable to other FLSA exempt positions.

(c) The governor may develop standards and criteria for reviewing the appointed executives.

(d) If under Section 73-10g-602 the governor appoints an individual who is servicing in an executive director or director of a state appointed executive branch entity position to be the Utah water agent, the governor shall adjust the salary of the Utah Water Agent water agent to account for salary received as an for the appointed executive director or director branch position.

(4) Salaries for other Schedule A employees, as defined in Section 63A-17-301, that are not provided for in this chapter, or in Title 67, Chapter 8, Utah Elected Official and Judicial Salary Act, shall be established as provided in Section 63A-17-301.

(5) (a) The Legislature fixes benefits for the appointed executives and the board or commission executives as follows:

(i) the option of participating in a state retirement system established by Title 49, Utah State Retirement and Insurance Benefit Act, or in a deferred compensation plan administered by the State Retirement Office in accordance with the Internal Revenue Code and its accompanying rules and regulations;

(ii) health insurance;

(iii) dental insurance;

(iv) basic life insurance;

(v) unemployment compensation;

(vi) workers' compensation;

(vii) required employer contribution to Social Security;

(viii) long-term disability income insurance;

(ix) the same additional state-paid life insurance available to other noncareer service employees;

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(x) the same severance pay available to other noncareer service employees;

(xi) the same leave, holidays, and allowances granted to Schedule B state employees as follows:

(A) sick leave;

(B) converted sick leave if accrued prior to January 1, 2014;

(C) educational allowances;

(D) holidays; and

(E) annual leave except that annual leave shall be accrued at the maximum rate provided to Schedule B state employees;

(xii) the option to convert accumulated sick leave to cash or insurance benefits as provided by law or rule upon resignation or retirement according to the same criteria and procedures applied to Schedule B state employees;

(xiii) the option to purchase additional life insurance at group insurance rates according to the same criteria and procedures applied to Schedule B state employees; and

(xiv) professional memberships if being a member of the professional organization is a requirement of the position.

(b) Each department shall pay the cost of additional state-paid life insurance for its executive director from its existing budget.

(6) The Legislature fixes the following additional benefits:

(a) for the executive director of the State Tax Commission a vehicle for official and personal use;

(b) for the executive director of the Department of Transportation a vehicle for official and personal use;

(c) for the executive director of the Department of Natural Resources a vehicle for commute and official use;

(d) for the commissioner of Public Safety:

(i) an accidental death insurance policy if POST certified; and

(ii) a public safety vehicle for official and personal use;

(e) for the executive director of the Department of Corrections:

(i) an accidental death insurance policy if POST certified; and

(ii) a public safety vehicle for official and personal use;

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(f) for the adjutant general a vehicle for official and personal use; and

(g) for each member of the Board of Pardons and Parole a vehicle for commute and official use.

Section 8. Section **73-10-3** is amended to read:

73-10-3. Organization of board .

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

~~[(2)] The board, with the approval of the executive director of the Department of Natural Resources and the governor, shall designate a representative who may be one of the board's members to represent the state in interstate conferences between the state and one or more sister states held for the purpose of entering into compacts between such states for the division of the waters of interstate rivers, lakes, or other sources of water supply, and to represent the state upon commissions or other governing bodies provided for by any compacts that have been or may hereafter be entered into between the state and one or more sister states. A compact may not become binding upon the state until the compact is ratified and approved by the Utah State Legislature and the legislatures of other states that are parties to the compact.]~~

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

~~[(4)] The designee of the Water Resource Board shall continue to represent the state as outlined in Subsections (2) and (3) on waters in the state except for:]~~

~~[(a) the Colorado River system which is governed by Title 63M, Chapter 14, Colorado River Authority of Utah Act; or]~~

~~[(b) state representation under:]~~

~~[(i) the Bear River Compact as provided in Section 73-16-4; or]~~

~~[(ii) the Columbia Interstate Compact as provided in Section 73-19-9.]~~

Section 9. Section **73-10-4** is amended to read:

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

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

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

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

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

(d) ~~[supervise in cooperation with the governor and the executive director of the Department of Natural Resources,]~~ cooperate with the Utah water agent, appointed under Section 73-10g-602, in matters affecting interstate compact negotiations and the administration of the compacts affecting the waters of interstate rivers, lakes and other sources of supply, with the exception of:

(i) the waters of the Colorado River system that are governed by Title 63M, Chapter 14, Colorado River Authority of Utah Act; or

(ii) state representation under:

(A) the Bear River Compact as provided in Section 73-16-4; or

(B) the Columbia Interstate Compact as provided in Section 73-19-9;

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

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

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

(h) review, approve, and revoke an application to create a water bank under Chapter

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31, Water Banking Act, collect an annual report, maintain the water banking website, and conduct any other function related to a water bank as described in Chapter 31, Water Banking Act.

(2) Nothing contained in this section shall be construed to impair or otherwise interfere with the authority of the state engineer granted by this title, except as specifically otherwise provided in this section.

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

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

(1) There is created the Division of Water Resources, which shall be within the Department of Natural Resources under the administration and general supervision of the executive director of the Department of Natural Resources and under the policy direction of the Board of Water Resources.

(2) Except for the waters of the Colorado River system that are governed by Title 63M, Chapter 14, Colorado River Authority of Utah Act, or state representation under the Bear River Compact or Columbia Interstate Compact, the Division of Water Resources shall:

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

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

(3) Notwithstanding Subsection (2), the Utah water agent, appointed under Section 73-10g-602, has authority over out-of-state negotiations related to water importation in accordance with Chapter 10g, Part 6, Utah Water Agent, except when limited by Section 73-10g-603.

Section 11. Section **73-10g-104** is amended to read:

73-10g-104. Authorized use of the Water Infrastructure Restricted Account.

Money in the restricted account is to be used, subject to appropriation, for:

(1) the development of the state's undeveloped share of the Bear and Colorado rivers, pursuant to existing interstate compacts governing both rivers as described in Chapter 26, Bear River Development Act, and Chapter 28, Lake Powell Pipeline Development Act;

(2) repair, replacement, or improvement of federal water projects for local sponsors in

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the state when federal funds are not available;

(3) study and development of rules, criteria, targets, processes, and plans, as described in Subsection 73-10g-105(3); [~~and~~]

(4) a project that benefits the Colorado River drainage in Utah, including projects for water reuse, desalinization, building of dams, or water conservation, if a county or municipality that benefits from the project:

(a) requires a new residential subdivision follow the regional conservation level of .59 acre-feet regardless of whether the outside water is potable, reuse, or secondary water;

(b) adopts and implements the local water conservancy district's emergency drought contingency plan;

(c) adopts and implements the local water conservancy district's grass rebate program's maximum grass restrictions;

(d) prohibits grass in new retail, industrial, or commercial facility landscaping;

(e) has reuse water be managed by the local water conservancy district;

(f) does not withdraw water from an aquifer in excess of the safe yield of the aquifer as defined in Section 73-5-15;

(g) adopts and implements excess water use surcharges;

(h) prohibits private water features in new development, such as a fountain, pond, or ski lake; and

(i) prohibits large grassy areas in new development, unless the large grassy area is open to the general public[?]; and

(5) a project recommended [to the Legislature](#) by the Water District Water Development Council, created in Section 11-13-228, for generational water infrastructure, as defined in Section 11-13-228.

Section 12. Section **73-10g-601** is enacted to read:

Part 6. Utah Water Agent

73-10g-601. Definitions.

As used in this part:

(1) "Council" means the Water District Water Development Council created pursuant to Section 11-13-228.

(2) "Division" means the Division of Water Resources.

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(3) "State or local entity" means:

(a) a department, division, commission, agency, or other instrumentality of state government; or

(b) a political subdivision or the political subdivision's instrumentalities.

(4) "Water agent" means the Utah water agent appointed by the governor under Section 73-10g-602.

Section 13. Section 73-10g-602 is enacted to read:

73-10g-602. Utah water agent.

(1) (a) The governor shall appoint, with the advice and consent of the Senate, a resident of this state to be the Utah water agent.

(b) The governor shall consult with the speaker of the House of Representatives and the president of the Senate before appointing the water agent.

(c) The water agent is a state employee.

~~(c)~~(d) The governor may appoint an individual who is serving in an ~~executive director or director of a state~~ executive branch ~~entity~~ appointed position to be the water agent, and the individual may ~~concurrently~~ serve in both positions, except that the governor shall adjust the salary of the water agent to account for salary received ~~as an~~ for the executive ~~director or director~~ branch appointed position.

(2) The water agent shall serve a term of six years and may be appointed to more than one term, but is subject to removal at the pleasure of the governor.

(3) If there is a vacancy in the position of water agent for any reason, the governor shall appoint a replacement using the same procedure as Subsection (1), including the requirement of the advice and consent of the Senate.

~~(3)~~4) Subject to Subsection (1)~~(c)~~(d), the governor shall establish the water agent's compensation within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

~~(4)~~5) (a) Upon appropriation by the Legislature, state money shall be used for the administration of this part, including paying the costs of:

(i) subject to Subsection (4)(b), the water agent's administrative, office, and staff support; and

(ii) reasonable travel expenses.

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(b) The water agent shall use office and staffing support provided under Subsection 11-13-228(2)(e).

Section 14. Section **73-10g-603** is enacted to read:

73-10g-603. Powers and duties of water agent.

(1) (a) Subject to Subsection (1)(b) and in consultation with the speaker of the House of Representatives, president of the Senate, and governor, the water agent shall explore and negotiate with officials of other states, tribes, and other government entities regarding possible water importation projects, including:

(i) for the citizens of Utah, representing the state concerning waters of out-of-state rivers, lakes, and other sources of supply of waters except when representation is otherwise provided in statute;

(ii) identifying potential out-of-state water resources;

(iii) working with the council and division to match the water resources described in Subsection (1)(a)(ii) to needs identified by the council or division;

(iv) establishing a strategy to designate what out-of-state water resources to pursue and how to execute that strategy;

(v) negotiating directly with out-of-state partners to execute the strategy described in Subsection (1)(a)(iv);

(vi) represent the state in interstate conferences between the state and one or more sister states held for the purpose of entering into compacts between such states for the division of the waters of interstate rivers, lakes, or other sources of water supply, and to represent the state upon commissions or other governing bodies provided for by any compacts that have been or may be entered into between the state and one or more sister states, except that a compact is not binding on the state until the compact is ratified and approved by the Legislature and the legislatures of other states that are parties to the compact;

(vii) recommending to the Legislature and to the council actions that may assist in the development of, strategies for, and execution of water importation projects; and

(viii) annually reporting findings and recommendations to:

(A) the governor;

(B) the president of the Senate;

(C) the speaker of the House of Representatives;

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(D) the Legislative Water Development Commission created in Section 73-27-102;

(E) the Natural Resources, Agriculture, and Environment Interim Committee; and

(F) the Board of Water Resources created in Section 73-10-1.5.

(b) The water agent may not act under this section in relation to interests governed by interstate compacts in which Utah is a party, such as the 1922 and 1948 Colorado River Compacts and the 1980 Amended Bear River Compact.

(2) The water agent shall consult and work with the council, state entities, the Colorado River Authority of Utah, and other bodies established by the state for interstate water negotiations.

(3) Subject to Title 63G, Chapter 2, Government Records Access and Management Act, upon request of the water agent, a state or local entity shall provide to the water agent a document, report, or information available within the state or local entity.

(4) The water agent may negotiate with tribes in accordance with this section, except to the extent that the water at issue comes from the Colorado River.

(5) This chapter may not be interpreted to override, substitute, or modify a water right within the state or the role and authority of the state engineer.

Section 15. FY 2025 Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.

Subsection 15(a). Operating and Capital Budgets.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1 To Governor's Office - Utah Water Agent

From General Fund, One-time	\$3,000,000
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From General Fund	\$1,000,000
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Schedule of Programs:

Utah Water Agent	\$4,000,000
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The Legislature intends that the one-time appropriation in this bill of \$3,000,000 from the

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General Fund ~~{be nonlapsing}~~ not lapse at the close of Fiscal Year 2025.

Section 16. **Effective date.**

This bill takes effect on May 1, 2024.