

PUBLIC SCHOOL MEMBERSHIP IN ASSOCIATIONS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Francis D. Gibson

Senate Sponsor: Daniel Hemmert

LONG TITLE

General Description:

This bill enacts language governing a public school's membership in certain associations.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits a public school from membership in certain associations after July 1, 2017;
- ▶ establishes requirements for the membership of an association governing body;
- ▶ requires an association to provide certain reports to the State Board of Education;
- ▶ requires an association to follow certain budgetary procedures;
- ▶ establishes an appeals panel to hear an appeal of certain decisions by an association;
- ▶ requires an association to comply with:
 - Title 52, Chapter 4, Open and Public Meetings Act;
 - Title 63G, Chapter 2, Government Records Access and Management Act; and
 - Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

This bill appropriates:

- ▶ to the State Board of Education -- State Administrative Office, an ongoing appropriation:
 - from the General Fund, \$15,000.

30 **Other Special Clauses:**

31 None

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **52-4-103**, as last amended by Laws of Utah 2016, Chapter 77

35 **63A-3-106**, as last amended by Laws of Utah 2016, Chapter 298

36 **63G-2-103**, as last amended by Laws of Utah 2015, Chapter 265

37 **67-16-3**, as last amended by Laws of Utah 2012, Chapter 202

38 ENACTS:

39 **53A-1-1601**, Utah Code Annotated 1953

40 **53A-1-1602**, Utah Code Annotated 1953

41 **53A-1-1603**, Utah Code Annotated 1953

42 **53A-1-1604**, Utah Code Annotated 1953

43 **53A-1-1605**, Utah Code Annotated 1953

44 **53A-1-1606**, Utah Code Annotated 1953



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

47 Section 1. Section **52-4-103** is amended to read:

48 **52-4-103. Definitions.**

49 As used in this chapter:

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

51 (a) an electronic meeting originates; or

52 (b) the participants are connected.

53 (2) "Capitol hill complex" means the grounds and buildings within the area bounded by

54 300 North Street, Columbus Street, 500 North Street, and East Capitol Boulevard in Salt Lake

55 City.

56 (3) "Convening" means the calling together of a public body by a person authorized to

57 do so for the express purpose of discussing or acting upon a subject over which that public

58 body has jurisdiction or advisory power.

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

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

62 (a) electronic mail;

63 (b) instant messaging;

64 (c) electronic chat;

65 (d) text messaging as defined in Section 76-4-401; or

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

67 electronically.

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

73 (b) "Meeting" does not mean:

74 (i) a chance gathering or social gathering; or

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

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

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

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

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

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

85 (7) "Monitor" means to hear or observe, live, by audio or video equipment, all of the

86 public statements of each member of the public body who is participating in a meeting.

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

90 (9) (a) "Public body" means:

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

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

94 [(ii)] (B) consists of two or more persons;

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

96 [(iv)] (D) is vested with the authority to make decisions regarding the public's
97 business[-]; or

98 (ii) any administrative, advisory, executive, or policymaking body of an association, as
99 defined in Section [53A-1-1601](#), that:

100 (A) consists of two or more persons;

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

104 (C) is vested with authority to make decisions regarding the participation of a public
105 school or student in an interscholastic activity as defined in Section [53A-1-1601](#).

106 (b) "Public body" includes, as defined in Section [11-13-103](#), an interlocal entity or joint
107 or cooperative undertaking.

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

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

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

111 (iii) school community council or charter trust land council as defined in Section
112 [53A-1a-108.1](#).

113 (10) "Public statement" means a statement made in the ordinary course of business of

114 the public body with the intent that all other members of the public body receive it.

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

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

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

122 (13) "Specified body":

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

124 (i) is not a public body;

125 (ii) consists of three or more members; and

126 (iii) includes at least one member who is:

127 (A) a legislator; and

128 (B) officially appointed to the body by the president of the Senate, speaker of the
129 House of Representatives, or governor; and

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

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

133 Section 2. Section **53A-1-1601** is enacted to read:

134 **Part 16. Public School Membership in Associations**

135 **53A-1-1601. Definitions.**

136 As used in this part:

137 (1) "Alignment" or "realignment" means the initial or subsequent act, respectively, of
138 assigning a public school a classification or region.

139 (2) "Appeals panel" means the appeals panel created in Section [53A-1-1606](#).

140 (3) (a) "Association" means an organization that governs or regulates a student's
141 participation in an athletic interscholastic activity.

142 (b) "Association" does not include an institution of higher education described in
143 Section 53B-1-102.

144 (4) "Classification" means the designation of a school based on the size of the school's
145 student enrollment population for purposes of interscholastic activities.

146 (5) "Eligibility" means eligibility to participate in an interscholastic activity regulated
147 or governed by an association.

148 (6) "Governing body" means a body within an association that:

149 (a) is responsible for:

150 (i) adopting rules or policies that govern interscholastic activities or the administration
151 of the association;

152 (ii) adopting or amending the association's governing document or bylaws;

153 (iii) enforcing the rules and policies of the association; and

154 (iv) adopting the association's budget; and

155 (b) has oversight of other boards, committees, councils, or bodies within the
156 association.

157 (7) "Interscholastic activity" means an activity within the state in which:

158 (a) a student that participates represents the student's school in the activity; and

159 (b) the participating student is enrolled in grade 9, 10, 11, or 12.

160 (8) "Public hearing" means a hearing at which members of the public are provided a
161 reasonable opportunity to comment on the subject of the hearing.

162 (9) "Region" means a grouping of schools of the same classification for purposes of
163 interscholastic activities.

164 Section 3. Section **53A-1-1602** is enacted to read:

165 **53A-1-1602. Public schools prohibited from membership.**

166 (1) A public school may not be a member of or pay dues to an association that is not in
167 compliance on or after July 1, 2017, with:

168 (a) this part;

169 (b) Title 52, Chapter 4, Open and Public Meetings Act;

170 (c) Title 63G, Chapter 2, Government Records Access and Management Act; and
171 (d) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.
172 (2) Unless otherwise specified, an association's compliance with or an association
173 employee or officer's compliance with the provisions described in Subsection (1) does not alter:

- 174 (a) the association's public or private status; or
- 175 (b) the public or private employment status of the employee or officer.

176 Section 4. Section **53A-1-1603** is enacted to read:

177 **53A-1-1603. Governing body membership.**

178 (1) (a) A governing body shall have 15 members as follows:

179 (i) six members who:

180 (A) are each an elected member of a local school board; and

181 (B) each represent a different classification;

182 (ii) (A) one school superintendent representing the two largest classifications;

183 (B) one school superintendent representing the two classifications that are next in

184 diminishing size to the smaller of the two classifications described in Subsection (1)(a)(ii)(A);

185 and

186 (C) one school superintendent representing the two classifications that are next in

187 diminishing size to the smaller of the two classifications described in Subsection (1)(a)(ii)(B);

188 (iii) (A) one school principal representing the two largest classifications;

189 (B) one school principal representing the two classifications that are next in

190 diminishing size to the smaller of the two classifications described in Subsection (1)(a)(iii)(A);

191 and

192 (C) one school principal representing the two classifications that are next in

193 diminishing size to the smaller of the two classifications described in Subsection (1)(a)(iii)(B);

194 (iv) one representative of charter schools;

195 (v) one representative of private schools, if private schools are members of or regulated

196 by the association; and

197 (vi) one member representing the State Board of Education.

198 (b) Only a member respectively described in Subsection (1)(a)(iv) or (v) may be
199 elected or appointed by or represent charter or private schools on the governing body.

200 (2) (a) A member described in Subsection (1)(a)(i), (ii), (iii), or (v) may be elected,
201 appointed, or otherwise selected in accordance with association rule or policy to the extent the
202 selection reflects the membership requirements in Subsection (1)(a)(i), (ii), (iii), or (v).

203 (b) A governing body member described in Subsection (1)(a)(vi) shall be the chair of
204 the State Board of Education or the chair's designee if the designee is an elected member of the
205 State Board of Education.

206 Section 5. Section **53A-1-1604** is enacted to read:

207 **53A-1-1604. Reporting requirements.**

208 An association shall provide a verbal report, accompanied by a written report, annually
209 to the State Board of Education, including:

- 210 (1) the association's annual budget in accordance with Section [53A-1-1605](#);
- 211 (2) a schedule of events scheduled or facilitated by the association;
- 212 (3) procedures for alignment or realignment;
- 213 (4) any amendments or changes to the association's governing document or bylaws; and
- 214 (5) any other information requested by the State Board of Education.

215 Section 6. Section **53A-1-1605** is enacted to read:

216 **53A-1-1605. Association budgets.**

217 (1) An association shall:

- 218 (a) adopt a budget in accordance with this section; and
- 219 (b) use uniform budgeting, accounting, and auditing procedures and forms, which shall
220 be in accordance with generally accepted accounting principles or auditing standards.

221 (2) An association budget officer or executive director shall annually prepare a
222 tentative budget, with supporting documentation, to be submitted to the governing body.

223 (3) The tentative budget and supporting documents shall include the following items:

- 224 (a) the revenues and expenditures of the preceding fiscal year;
- 225 (b) the estimated revenues and expenditures of the current fiscal year;

226 (c) a detailed estimate of the essential expenditures for all purposes for the next
227 succeeding fiscal year; and

228 (d) the estimated financial condition of the association by funds at the close of the
229 current fiscal year.

230 (4) The tentative budget shall be filed with the governing body 15 days, or earlier,
231 before the date of the tentative budget's proposed adoption by the governing body.

232 (5) The governing body shall adopt a budget.

233 (6) Before the adoption or amendment of a budget, the governing body shall hold a
234 public hearing on the proposed budget or budget amendment.

235 (7) (a) In addition to complying with Title 52, Chapter 4, Open and Public Meetings
236 Act, in regards to the public hearing described in Subsection (6), at least 10 days before the
237 public hearing, a governing body shall:

238 (i) publish a notice of the public hearing electronically in accordance with Section
239 63F-1-701; and

240 (ii) post the proposed budget on the association's Internet website.

241 (b) A notice of a public hearing on an association's proposed budget shall include
242 information on how the public may access the proposed budget as provided in Subsection
243 (7)(a).

244 (8) No later than September 30 of each year, the governing body shall file a copy of the
245 adopted budget with the state auditor and the State Board of Education.

246 Section 7. Section **53A-1-1606** is enacted to read:

247 **53A-1-1606. Procedures for disputes -- Appeals -- Appeals panel -- Compensation.**

248 (1) (a) An association shall establish a uniform procedure for hearing and deciding:

249 (i) disputes;

250 (ii) allegations of violations of the association's rules or policies;

251 (iii) requests to establish eligibility after a student transfers schools; and

252 (iv) disputes related to alignment or realignment.

253 (b) An individual may appeal to an appeals panel established in this section an

254 association decision regarding a request to establish eligibility after a student transfers schools.

255 (2) (a) There is established an appeals panel for an association decision described in
256 Subsection (1)(b).

257 (b) The appeals panel shall consist of the following three members:

258 (i) a judge or attorney who is not employed by, or contracts with, a school;

259 (ii) a retired educator, principal, or superintendent; and

260 (iii) a retired athletic director or coach.

261 (c) A review and decision by the appeals panel is limited to whether the association
262 properly followed the association's rules and procedures in regard to a decision described in
263 Subsection (1)(b).

264 (d) (i) An association shall adopt policies for filing an appeal with the appeals panel.

265 (ii) The appeals panel shall review an appeal and issue a written decision explaining
266 the appeals panel's decision no later than 10 business days after an appeal is filed.

267 (e) The appeals panel's decision is final.

268 (3) (a) The State Board of Education shall appoint the members of the appeals panel
269 described in Subsection (2):

270 (i) from the association's nominations described in Subsection (3)(b); and

271 (ii) in accordance with the State Board of Education's appointment process.

272 (b) (i) The association shall nominate up to three individuals for each position
273 described in Subsection (2) for the State Board of Education's consideration.

274 (ii) If the State Board of Education refuses to appoint members to the panel who were
275 nominated by the association as described in Subsection (3)(b)(i), the State Board of Education
276 shall request additional nominations from the association.

277 (iii) No later than 45 days after the association provides the nominations, the State
278 Board of Education shall appoint to the appeals panel an individual from the names provided
279 by the association.

280 (c) For the initial membership, the State Board of Education shall appoint two of the
281 positions having an initial term of three years and one position having an initial term of two

282 years.

283 (d) Except as required by Subsection (3)(e), as terms of appeals panel members expire,
284 the State Board of Education shall appoint each new member or reappointed member to a
285 two-year term.

286 (e) When a vacancy occurs in the membership for any reason, the replacement shall be
287 appointed for the unexpired term.

288 (4) The State Board of Education shall reimburse an association for per diem and travel
289 expenses of members of the appeals panel.

290 Section 8. Section **63A-3-106** is amended to read:

291 **63A-3-106. Per diem rates for board members.**

292 (1) As used in this section and Section **63A-3-107**:

293 (a) "Board" means a board, commission, council, committee, task force, or similar
294 body established to perform a governmental function.

295 (b) "Board member" means a person appointed or designated by statute to serve on a
296 board.

297 (c) "Executive branch" means an agency within the executive branch of state
298 government.

299 (d) (i) "Governmental entity" has the same meaning, except as provided in Subsection
300 (1)(d)(ii), as provided under Section 63G-2-103.

301 (ii) "Governmental entity" does not include an association as defined in Section
302 53A-16-101.

303 (e) "Higher education" means a state institution of higher education, as defined under
304 Section **53B-1-102**.

305 (f) "Officer" means a person who is elected or appointed to an office or position within
306 a governmental entity.

307 (g) "Official meeting" means a meeting of a board that is called in accordance with
308 statute.

309 (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and

310 subject to approval by the executive director, the director of the Division of Finance shall make
311 rules establishing per diem rates to defray subsistence costs for a board member's attendance at
312 an official meeting.

313 (3) Unless otherwise provided by statute, a per diem rate established under Subsection
314 (2) is applicable to a board member who serves:

- 315 (a) within the executive branch, except as provided under Subsection (3)(b);
- 316 (b) within higher education, unless higher education pays the costs of the per diem;
- 317 (c) on a board that is:
 - 318 (i) not included under Subsection (3)(a) or (b); and
 - 319 (ii) created by a statute that adopts the per diem rates by reference to:
 - 320 (A) this section; and
 - 321 (B) the rule authorized by this section; and
- 322 (d) within a government entity that is not included under Subsection (3)(a), if the

323 government entity adopts the per diem rates by reference to:

- 324 (i) this section; or
- 325 (ii) the rule establishing the per diem rates.

326 (4) (a) Unless otherwise provided by statute, a board member who is not a legislator
327 may receive per diem under this section and travel expenses under Section [63A-3-107](#) if the per
328 diem and travel expenses are incurred by the board member for attendance at an official
329 meeting.

330 (b) Notwithstanding Subsection (4)(a), a board member may not receive per diem or
331 travel expenses under this Subsection (4) if the board member is being paid by a governmental
332 entity while performing the board member's service on the board.

333 (5) A board member may decline to receive per diem for the board member's service.

334 (6) Compensation and expenses of a board member who is a legislator are governed by
335 Section [36-2-2](#) and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

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

337 **63G-2-103. Definitions.**

338 As used in this chapter:

339 (1) "Audit" means:

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

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

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

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

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

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

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

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

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

360 (b) "Computer program" does not mean:

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

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

364 (iii) the mathematical or statistical formulas, excluding the underlying mathematical
365 algorithms contained in the program, that would be used if the manipulated forms of the

366 original data were to be produced manually.

367 (5) (a) "Contractor" means:

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

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

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

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

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

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

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

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

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

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

388 (ii) the resultant gaseous pressures are capable of:

389 (A) producing destructive effects on contiguous objects; or

390 (B) causing death or serious bodily injury.

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

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

393 (i) executive department agencies of the state, the offices of the governor, lieutenant

394 governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole,
395 the Board of Examiners, the National Guard, the Career Service Review Office, the State
396 Board of Education, the State Board of Regents, and the State Archives;

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

401 (iii) courts, the Judicial Council, the Office of the Court Administrator, and similar
402 administrative units in the judicial branch;

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

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

408 (b) "Governmental entity" also means:

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

412 (ii) as defined in Section [11-13-103](#), an interlocal entity or joint or cooperative
413 undertaking[-]; and

414 (iii) an association as defined in Section [53A-1-1601](#).

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

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

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

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

- 426 (i) the date, time, location, and nature of the complaint, the incident, or offense;
- 427 (ii) names of victims;
- 428 (iii) the nature or general scope of the agency's initial actions taken in response to the
429 incident;
- 430 (iv) the general nature of any injuries or estimate of damages sustained in the incident;
- 431 (v) the name, address, and other identifying information about any person arrested or
432 charged in connection with the incident; or
- 433 (vi) the identity of the public safety personnel, except undercover personnel, or
434 prosecuting attorney involved in responding to the initial incident.

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

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

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

442 (17) "Person" means:

- 443 (a) an individual;
- 444 (b) a nonprofit or profit corporation;
- 445 (c) a partnership;
- 446 (d) a sole proprietorship;
- 447 (e) other type of business organization; or
- 448 (f) any combination acting in concert with one another.

449 (18) "Private provider" means any person who contracts with a governmental entity to

450 provide services directly to the public.

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

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

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

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

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

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

464 (b) "Record" does not mean:

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

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

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

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

472 (iii) material that is legally owned by an individual in the individual's private capacity;

473 (iv) material to which access is limited by the laws of copyright or patent unless the
474 copyright or patent is owned by a governmental entity or political subdivision;

475 (v) proprietary software;

476 (vi) junk mail or a commercial publication received by a governmental entity or an
477 official or employee of a governmental entity;

478 (vii) a book that is cataloged, indexed, or inventoried and contained in the collections
479 of a library open to the public;

480 (viii) material that is cataloged, indexed, or inventoried and contained in the collections
481 of a library open to the public, regardless of physical form or characteristics of the material;

482 (ix) a daily calendar or other personal note prepared by the originator for the
483 originator's personal use or for the personal use of an individual for whom the originator is
484 working;

485 (x) a computer program that is developed or purchased by or for any governmental
486 entity for its own use;

487 (xi) a note or internal memorandum prepared as part of the deliberative process by:

488 (A) a member of the judiciary;

489 (B) an administrative law judge;

490 (C) a member of the Board of Pardons and Parole; or

491 (D) a member of any other body, other than an association or appeals panel as defined
492 in Section 53A-1-1601, charged by law with performing a quasi-judicial function;

493 (xii) a telephone number or similar code used to access a mobile communication
494 device that is used by an employee or officer of a governmental entity, provided that the
495 employee or officer of the governmental entity has designated at least one business telephone
496 number that is a public record as provided in Section 63G-2-301;

497 (xiii) information provided by the Public Employees' Benefit and Insurance Program,
498 created in Section 49-20-103, to a county to enable the county to calculate the amount to be
499 paid to a health care provider under Subsection 17-50-319(2)(e)(ii);

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

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

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

506 (24) "Records committee" means the State Records Committee created in Section
507 [63G-2-501](#).

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

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

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

518 (a) conducted:

519 (i) by an institution within the state system of higher education defined in Section
520 [53B-1-102](#); and

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

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

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

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

526 (28) "State archives" means the Division of Archives and Records Service created in
527 Section [63A-12-101](#).

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

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

532 Section 10. Section **67-16-3** is amended to read:

533 **67-16-3. Definitions.**

534 As used in this chapter:

535 (1) "Agency" means:

536 (a) any department, division, agency, commission, board, council, committee,
537 authority, or any other institution of the state or any of its political subdivisions[?]; or

538 (b) an association as defined in Section [53A-16-101](#).

539 (2) "Agency head" means the chief executive or administrative officer of any agency.

540 (3) "Assist" means to act, or offer or agree to act, in such a way as to help, represent,
541 aid, advise, furnish information to, or otherwise provide assistance to a person or business
542 entity, believing that such action is of help, aid, advice, or assistance to such person or business
543 entity and with the intent to assist such person or business entity.

544 (4) "Business entity" means a sole proprietorship, partnership, association, joint
545 venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on
546 a business.

547 (5) "Compensation" means anything of economic value, however designated, which is
548 paid, loaned, granted, given, donated, or transferred to any person or business entity by anyone
549 other than the governmental employer for or in consideration of personal services, materials,
550 property, or any other thing whatsoever.

551 (6) "Controlled, private, or protected information" means information classified as
552 controlled, private, or protected in Title 63G, Chapter 2, Government Records Access and
553 Management Act, or other applicable provision of law.

554 (7) "Governmental action" means any action on the part of the state, a political
555 subdivision, or an agency, including:

556 (a) any decision, determination, finding, ruling, or order; and

557 (b) any grant, payment, award, license, contract, subcontract, transaction, decision,
558 sanction, or approval, or the denial thereof, or the failure to act in respect to.

559 (8) "Improper disclosure" means disclosure of controlled, private, or protected
560 information to any person who does not have the right to receive the information.

561 (9) "Legislative employee" means any officer or employee of the Legislature, or any

562 committee of the Legislature, who is appointed or employed to serve, either with or without
563 compensation, for an aggregate of less than 800 hours during any period of 365 days.

564 "Legislative employee" does not include legislators.

565 (10) "Legislator" means a member or member-elect of either house of the Legislature
566 of the state of Utah.

567 (11) "Political subdivision" means a district, school district, or any other political
568 subdivision of the state that is not an agency, but does not include a municipality or a county.

569 (12) (a) "Public employee" means a person who is not a public officer who is employed
570 on a full-time, part-time, or contract basis by:

571 (i) the state [~~or any of its political subdivisions.~~];

572 (ii) a political subdivision of the state; or

573 (iii) an association as defined in Section [53A-1-1601](#).

574 (b) "Public employee" does not include legislators or legislative employees.

575 (13) (a) "Public officer" means [~~all~~] an elected or appointed [~~officers of the state or any~~
576 ~~of its political subdivisions who occupy policymaking posts.~~] officer:

577 (i) (A) of the state;

578 (B) of a political subdivision of the state; or

579 (C) an association as defined in Section [53A-1-1601](#); and

580 (ii) who occupies a policymaking post.

581 (b) "Public officer" does not include legislators or legislative employees.

582 (14) "State" means the state of Utah.

583 (15) "Substantial interest" means the ownership, either legally or equitably, by an
584 individual, the individual's spouse, or the individual's minor children, of at least 10% of the
585 outstanding capital stock of a corporation or a 10% interest in any other business entity.

586 Section 11. **Appropriation.**

587 The following sums of money are appropriated for the fiscal year beginning July 1,
588 2017, and ending June 30, 2018. These are additions to amounts previously appropriated for
589 fiscal year 2018. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures

590 Act, the Legislature appropriates the following sums of money from the funds or accounts
591 indicated for the use and support of the government of the state of Utah.

592 To State Board of Education -- State Administrative Office

593 From General Fund, Ongoing \$15,000

594 Schedule of Programs:

595 Board and Administration \$15,000

596 The Legislature intends that the State Board of Education use the appropriation to the
597 State Board of Education under this section to reimburse an association for per diem and travel
598 expenses incurred by a member of an appeals panel described in Section [53A-1-1606](#).