

# HABITAT COUNCIL HANDBOOK

January 2022



Wildlife guzzler on the Lake Mountains (2017)



# **Habitat Council Handbook**

## **Background**

In 1995, the Utah Legislature created the Wildlife Habitat Account, which is funded by a portion of revenue from license, permit, stamp, and certificate of registration fees (see Appendix A for additional detail.) Money deposited into this account can be used for the enhancement, preservation, management, acquisition, and protection of fish and wildlife habitat, and for improving access for hunting and fishing. More specifically, Wildlife Habitat Account funds are to be used for the following purposes:

- 1) The development, restoration, and preservation of wetlands that are beneficial to waterfowl
- 2) Upland game projects designed to:
  - Control predators
  - Develop, improve, restore or maintain critical habitat through the establishment of landowner incentives, cooperative programs, or other means
  - Acquire or preserve critical habitat
  - Implement landowner habitat education and assistance programs
  - Provide public access to private lands
  - Implement upland game transplant and reintroduction programs
- 3) The enhancement, acquisition, preservation, and management of aquatic and terrestrial wildlife habitats
- 4) To provide access for hunting and fishing

The Habitat Council was mandated by Utah State Code to assist in the expenditure of these funds. The Utah Division of Wildlife Resources (DWR) is required to seek the advice and recommendations of the Habitat Council regarding the expenditure of Wildlife Habitat Account monies.

## **Purpose of the Habitat Council**

- To provide recommendations to the DWR regarding the expenditure of Wildlife Habitat Account monies.
- To identify the most effective methods of protecting, preserving, and enhancing important wildlife habitat in the state.
- To recommend the most appropriate means of providing access to hunting and fishing opportunities.
- To seek to maximize DWR revenue available for Wildlife Habitat Account programs through matching, partnerships, etc.
- To review habitat management planning functions for Division lands.
- To encourage biological diversity and ecosystem-based management.
- To review external conservation permit habitat project proposals not reviewed by the Utah's Partners for Conservation and Development.



Beaver Dam Analog (BDA) construction

### **Habitat Council Membership and Operating Procedures**

- The Habitat Council consists of 8 members – 4 citizens representing different sportsman/wildlife interests, and 4 DNR employees.
- The citizen members of the Habitat Council serve 2-year terms, with possible extensions.
- Habitat Council meetings shall follow Roberts Rules of Order.
- The DWR Habitat Section Chief shall serve as the chair of the Habitat Council.
- The chair shall not vote unless necessary to break a tie.
- Five members shall constitute a quorum.
- A quorum is required for all Habitat Council actions, with a simple majority of members present needed to prevail.
- Habitat Council meetings are open to the public, and must comply with the Utah Open and Public Meetings Act, which is attached as Appendix B.

### **Allocating Wildlife Habitat Account Funds to Various Project Types**

According to Utah Code, each year up to \$70,000 or 4% of the annual deposits into the account, whichever amount is greater, shall be allocated for the development, restoration, and preservation of wetlands that are beneficial to waterfowl. In addition, up to \$230,000 or 12% of the annual deposits to the account, whichever amount is greater, shall be allocated to upland game projects.

The remaining annual deposits to the account will be allocated to big game and sport fish projects, with the money generally put back into the activity that generated the revenue. However, the Habitat Council should be flexible when recommending projects for funding, always keeping the best interest of wildlife and sportsmen in mind.

### **Proposal Review and Funding Recommendation Process**

- The approved timeline for Habitat Council and Watershed Restoration Initiative proposal review and funding is included in Appendix C.
- All project proposals, including Wildlife Management Area maintenance proposals, will be entered into the DWR Habitat Projects Database by the first week of January annually.
- Under rare circumstances, such as time sensitive projects, emergency situations, and exceptional wildlife/DWR need, the above deadlines may be waived.
- Proposals will be available for review on the Watershed Restoration Initiative website (<http://wri.utah.gov/wri>) prior to presentation to the Habitat Council.
- Proposals will typically be presented to the Habitat Council from January through April. The Habitat Council will typically review and approve or reject projects for inclusion in an initial project listing that will later be prioritized for available funding.
- The Habitat Council will finalize its funding recommendations to the DWR Director by April 30<sup>th</sup>.
- Work on projects approved by the DWR Director may begin on July 1<sup>st</sup>.
- The Habitat Council shall not review requests to fund new DWR personnel costs unless the request has already been reviewed and approved by the DWR Director.
- The Habitat Council shall not review requests to purchase DWR equipment unless the request has already been reviewed and approved by the DWR Director.

## **Other Funding Sources**

In addition to the Wildlife Habitat Account, funds from other sources are available for habitat restoration and sportsman access projects. Depending on the project and the money available, Wildlife Habitat Account dollars can be matched with other funds, or other sources may be used to completely fund projects that are not prioritized by the Habitat Council. Some other funding sources include:

- Federal Aid in Wildlife Restoration (Pittman-Robertson) – The Federal Aid in Wildlife Restoration program is a joint effort between the Federal government, state governments, industry, and hunters to support increased hunting opportunities through the collection of excise taxes on firearms, shells, cartridges, bows, arrows, parts, and accessories. These funds are used for the restoration, rehabilitation, and improvement of areas of land or water adaptable as feeding, resting, or breeding places for wildlife. These Federal funds are distributed to the states based on hunting license sales and must be matched at a 75% Federal to 25% non-Federal ratio.
- Federal Aid in Sport Fish Restoration (Dingell-Johnson and Wallop-Breaux) - The Federal Aid in Sport Fish Restoration program is a joint effort between the Federal government, state governments, industry, boaters, and anglers to support increased sport fishing and boating opportunities through the collection of excise taxes on fishing equipment, boats, boat parts, and boat fuel. These Federal funds are distributed to the states based on fishing license sales and must be matched at a 75% Federal to 25% non-Federal ratio.
- Wildlife Restricted Account - The majority of DWR's revenue is generated from the sale of hunting and fishing licenses and permits. These funds are restricted for exclusive use by DWR and cannot be transferred to other state agencies. One hundred percent of the license dollars collected stay within the DWR to carry out DWR's mission to serve as guardian of the state's wildlife.
- General Funds - General funds (tax dollars) account for a small portion of DWR's annual budget. These funds are used primarily for sensitive species, law enforcement, wildlife depredation, and some fish hatchery programs. Because the Legislature has indicated that DWR should not use hunting or fishing license revenue to fund non-game species management, these funds help cover the costs of non-game management.
- Cooperative Agreements – The DWR often enters into cooperative agreements or contracts with Federal agencies, state agencies, non-profit organizations, and other groups for the purpose of completing specific projects that benefit wildlife. The cooperating entity may provide DWR with funds dedicated to the completion of the task(s) described in the cooperative agreement.
- Utah Watershed Restoration Initiative – The Utah Watershed Restoration Initiative (WRI) is a joint effort by Federal agencies, state agencies, conservation groups, the agricultural industry, and other organizations to improve habitat and range conditions throughout Utah to benefit water quality, wildlife, grazing, and other traditional land uses. Dedicated watershed restoration funds are provided by the Utah Department of Natural Resources, the Bureau of Land Management, the USDA Natural Resources Conservation Service, and other cooperators.

- Blue Ribbon Fisheries Advisory Council – The mission of the Blue Ribbon Fisheries Advisory Council (BRFAC) is to identify, enhance, and protect those Utah waters and their watersheds that provide, or have the potential to provide, Blue Ribbon quality, public angling experiences. The BRFAC makes recommendations to the DWR Director regarding the annual expenditure of the funds made available for these specific purposes.
- Conservation Permits – Conservation permits are harvest permits issued to conservation organizations for sale at an auction, or for use as an aid to wildlife related fund raising activities. Species for which conservation permits may be issued include deer, elk, pronghorn, moose, bison, Rocky Mountain goat, Rocky Mountain bighorn sheep, desert bighorn sheep, wild turkey, cougar, and black bear. When conservation permits are sold, 30% of the revenue is remitted to the DWR (these funds are sometimes called “internal conservation permit funds”), where the money can be allocated to eligible wildlife projects. The remaining 70% of the revenue may be maintained by the conservation organization that sold the permit. Up to 10% of the revenue may be withheld and used by the conservation organization for administrative expenses. The remaining 60% of the revenue may be used by the conservation organization only for eligible projects approved by the DWR Director (these funds are sometimes called “external conservation permit funds”). Eligible conservation permit projects include habitat improvement, habitat acquisition, transplants, targeted education efforts, and other projects providing a substantial benefit to species of wildlife for which conservation permits are issued.



Seed Warehouse at DWR’s Great Basin Research Center.

## **Habitat Council Members**

The current Habitat Council members are:

Randy Hutchison, Upland Game interests  
Term expires in September 2023

Steve Sorensen, Big Game interests  
Term expires in September 2023

Benjamin Allen, Sportfish interest  
Term expires in September 2023

Jack Ray, Waterfowl interests  
Term expires in September 2022

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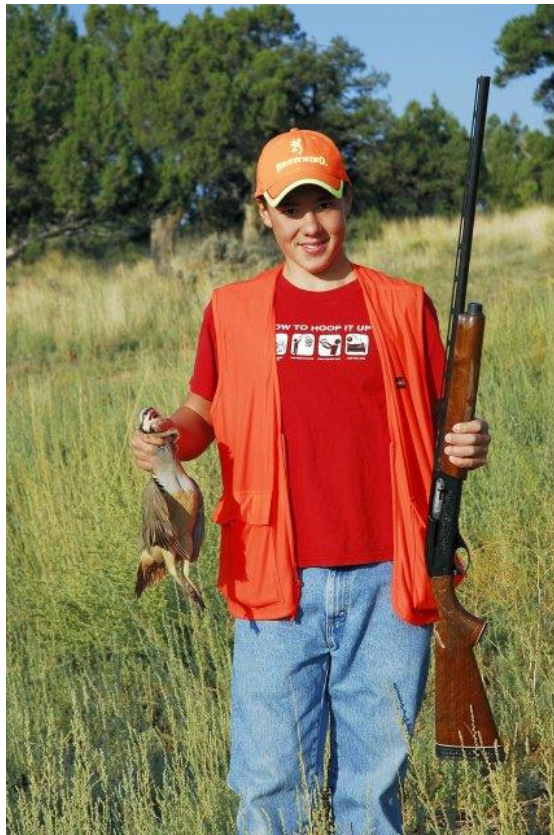
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## Appendix A – WRI Proposal and Funding Timeline

### Watershed Restoration Initiative Proposal and Funding Timeline

	<u>Habitat Council</u>	<u>Watershed Projects</u>	<u>Conservation Permits</u>
December	All proposals, including WMA maintenance proposals, entered in the habitat projects database by January 7.	Proposals entered in the habitat projects database by January 7.	Proposals entered in the habitat projects database by January 7. This includes all projects from outside interests (Forest Service, BLM, etc.). <i>NOTE: DWR will not consider habitat projects for funding unless they are entered in the database.</i>
January	Proposal review by SLO.  Proposal presentations by project managers will focus on <b>WMA maintenance, water development, Habitat Management Plans (HMPs)</b>	Proposal review by SLO.	Proposal review by SLO.  Proposal presentations by project managers to either Habitat Council or UPCD regional team.
February	Proposal presentations meeting will focus on <b>Waterfowl/Upland Game</b> Meeting.	Proposal review by SLO.  Final project review by local UPCD groups. (Local UPCD review may be on going throughout the year.)	Proposal review by SLO.  Proposal presentations by project managers to either Habitat Council or UPCD regional team.
March	Proposal presentations meeting will focus on <b>Aquatic</b> proposals and will be a joint meeting with the <b>Blue Ribbon Fisheries Advisory Council (BRFAC)</b> .	Final local UPCD rankings to SLO by March 1.  Preliminary funding considerations made, anticipating project decisions by conservation groups and other outside funding sources.	Conservation groups provided with spreadsheet of all habitat projects that lists: project number, project title, county, local UPCD ranking, total cost, unfunded balance, acres, and cost per acre.  Project review by conservation groups.

<p>April</p>	<p>Proposal presentations meeting will focus on <b>Big Game Meeting</b>.</p> <p>The SLO Aquatic and Wildlife Sections will rank projects from a statewide perspective.</p> <p><b>Budget meeting</b> and final funding decisions.</p>	<p>Final statewide funding consideration made (using local UPCD rankings and prioritization criteria) and approved by Habitat Section Chief and WRI Director.</p>	<p>Conservation groups meet to assign funding to projects; Coversheets are created and signed by conservation groups.</p>
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<p>May</p>	<p>Spreadsheet and memo created for Director and Fiscal signature.</p> <p>Budget change forms.</p> <p>Submit projects for RDCC review (letter and spreadsheet referring to the web site).</p>	<p>Spreadsheet and memo created for DWR Director, DNR Executive Director, and the State UPCD.</p> <p>Budget change forms and cooperative agreements.</p> <p>Submit projects for RDCC review (letter and spreadsheet referring to the web site).</p>	<p>Wildlife Section Chief, Habitat Section Chief, and DWR Director approvals of conservation permit projects.</p> <p>Start budget change forms. Signed coversheets will accompany budget change forms.</p> <p>Submit projects for RDCC review (letter and spreadsheet referring to the web site).</p>
<p>June</p>	<p>Budget change forms submitted to Fiscal for program number creation by June 10.</p>	<p>Budget change forms submitted to Fiscal for program number creation by June 10.</p>	<p>Budget change forms submitted to Fiscal for program number creation by June 10.</p>
<p>July</p>	<p>Program numbers distributed by July 1.</p> <p>Old year closeout and carryover project administration.</p>	<p>Program numbers distributed by July 1.</p> <p>Old year closeout and carryover project administration.</p>	<p>Program numbers distributed by July 1.</p> <p>Old year closeout and carryover project administration.</p>

## **Appendix B – Utah State Code Pertaining to the Habitat Account and Habitat Council.**

“State Code” is state law that can only be changed by the legislature.

### **23-19-43. Wildlife Habitat Account -- Contents -- Use of fund monies.**

(1) There is created a restricted account within the General Fund known as the Wildlife Habitat Account.

(2) The contents of the account shall consist of:

(a) revenue from the sale of licenses, permits, stamps, certificates of registration, and Wildlife Heritage certificates as provided in Section 23-19-47;

(b) money donated to the division for a purpose specified in Subsection (6); and

(c) interest and earnings on account monies.

(3) Revenue from the sale of licenses, permits, stamps, certificates of registration, and Wildlife Heritage certificates that is deposited to the account pursuant to Section 23-19-47 shall be used by the division, after appropriation by the Legislature, as provided in Subsections (4) through (6).

(4) (a) Each year up to \$70,000 or 4% of the annual deposits to the account, whichever amount is greater, shall be allocated for the development, restoration, and preservation of wetlands that are beneficial to waterfowl.

(b) Up to 20% of the money allocated to waterfowl projects may be appropriated by the Legislature for use by a nonprofit conservation organization for wetland development projects within the state that benefit waterfowl.

(5) (a) Each year up to \$230,000 or 12% of the annual deposits to the account, whichever amount is greater, shall be allocated to upland game projects as follows:

(i) the control of predators;

(ii) the development, improvement, restoration, or maintenance of critical habitat through the establishment of landowner incentives, cooperative programs, or other means;

(iii) the acquisition or preservation of critical habitat;

(iv) landowner habitat education and assistance programs;

(v) public access to private lands; and

(vi) upland game transplant and reintroduction programs.

(b) As used in this section "upland game" means pheasant, quail, chukar, partridge, sage grouse, sharp-tailed grouse, Hungarian partridge, ruffed grouse, blue grouse, ptarmigan, mourning dove, band-tailed pigeon, turkey, cottontail rabbit, or snowshoe hare.

(c) Monies allocated to upland game may not be used for the acquisition, development, improvement, restoration, or maintenance of habitat within commercial hunting areas.

(d) No more than 5% of the monies allocated to upland game may be used for landowner habitat education programs.

(e) The monies allocated to upland game shall be used for programs and activities relating to upland game species based generally upon the proportion of average annual hunter participation for each species.

(f) Projects for which free public access is assured shall receive first priority for

funding from monies allocated to upland game.

(g) Projects for which public access is assured shall receive second priority for funding from monies allocated to upland game.

(6) The remaining money in the account shall be used for the following purposes:

(a) the enhancement, acquisition, preservation, protection, and management of aquatic and terrestrial wildlife habitat; and

(b) to improve access for fishing and hunting.

(7) The division shall seek the advice and recommendations of the Habitat Council, created by the division, regarding the expenditure of account monies.

(8) Donations of money deposited into the account and interest earned on that money shall be expended:

(a) as directed by the donor; and

(b) without being appropriated by the Legislature.

**23-19-47. Portion of revenue from license, permit, stamp, certificate of registration, and Wildlife Heritage certificate fees deposited in Wildlife Habitat Account.**

(1) Fifty cents of the fee charged for any of the following licenses or stamps shall be deposited in the Wildlife Habitat Account created in Section 23-19-43:

(a) a one-day fishing license; or

(b) a one-day fishing stamp.

(2) Three dollars and fifty cents of the fee charged for any of the following licenses or permits shall be deposited in the Wildlife Habitat Account created in Section 23-19-43:

(a) a fishing license, except any one-day fishing license;

(b) a hunting license;

(c) a combination license;

(d) a furbearer license; or

(e) a fishing permit, except any fish stamp.

(3) Four dollars and seventy-five cents of the fee charged for any of the following certificates of registration, permits, or Wildlife Heritage certificates shall be deposited in the Wildlife Habitat Account created in Section 23-19-43:

(a) a certificate of registration for the dedicated hunter program, except a certificate of registration issued to a lifetime licensee;

(b) a big game permit;

(c) a bear permit;

(d) a cougar permit;

(e) a turkey permit;

(f) a muskrat permit; or

(g) a Wildlife Heritage certificate.

**23-21-2.1. Management plans.**

(1) The division shall prepare a management plan for each wildlife management area. Upon adoption of a management plan by the division director, the lands shall be managed in accordance with the management plan.

(2) Each plan shall include:

(a) a statement of the proposed or anticipated uses;

(b) a description of any management limitations or conditions covering the area;

(c) an inventory of the existing conditions;

- (d) a statement of the desired future condition of the area;
  - (e) a list of strategies that may be implemented to achieve the desired future condition;
- and
- (f) a description of any reallocation of forage, water, or other resource appurtenant to the land.

**23-21-2.3. Review and adoption of management plans.**

(1) The division shall submit the draft management plan to the Resource Development Coordinating Committee created in Section 63J-4-501 and the Habitat Council created by the division for their review and recommendations.

(2) The division shall submit the draft management plan and any recommendations received from the Resource Development Coordinating Committee and the Habitat Council to:

(a) the regional advisory council for the wildlife region in which the lands covered by the management plan are located; and

(b) the regional advisory council for any wildlife region that may be affected by the management plan.

(3) Each regional advisory council reviewing the draft management plan may make recommendations to the division director.

(4) The division director has authority to adopt the management plan, adopt the plan with amendments, or reject the plan.

(5) At the request of the division director or any member of the Wildlife Board, the Wildlife Board may review a management plan to determine whether the plan is consistent with board policies.

(6) The division director may amend a management plan in accordance with recommendations made by the Wildlife Board.

**23-21-2.4. Procedure to revise a management plan.**

(1) Any person seeking a revision of a management plan may request the regional advisory council in the region where the land is located to consider the proposal to revise the plan. The regional advisory council shall consider the proposal and advise the division.

(2) The process specified in Sections 23-21-2.2 and 23-21-2.3 shall be used to revise a management plan.

## Appendix C – Open and Public Meetings Act

### Utah Code -- Title 52 -- Chapter 04 -- Open and Public Meetings Act

#### **52-4-101. Title.**

This chapter is known as the "Open and Public Meetings Act."

#### **52-4-102. Declaration of public policy.**

- (1) The Legislature finds and declares that the state, its agencies and political subdivisions, exist to aid in the conduct of the people's business.
- (2) It is the intent of the Legislature that the state, its agencies, and its political subdivisions:
  - (a) take their actions openly; and
  - (b) conduct their deliberations openly.

#### **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, as that term is defined in Section [76-4-401](#); or
  - (e) any other method that conveys a message or facilitates communication electronically.
- (6) (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 specific 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
    - (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.
- (7) "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.
- (8) "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.
- (9) (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:
- (i) an interlocal entity or joint or cooperative undertaking, as those terms are defined in Section [11-13-103](#);
  - (ii) a governmental nonprofit corporation as that term is defined in Section [11-13a-102](#); and
  - (iii) the Utah Independent Redistricting Commission.
- (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](#); 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.
- (10) "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.
- (11) (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.
- (12) "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.
- (13) "Specified body":
- (a) means an administrative, advisory, executive, or legislative body that:

- (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 [\(9\)\(c\)\(ii\)](#) or [\(9\)\(c\)\(v\)](#).
- (14) "Transmit" means to send, convey, or communicate an electronic message by electronic means.

**52-4-104. Training.**

- (1) The presiding officer of the public body shall ensure that the members of the public body are provided with annual training on the requirements of this chapter.
- (2) The presiding officer shall ensure that any training described in Subsection [\(1\)](#) complies with [Title 63G, Chapter 22, State Training and Certification Requirements](#).

**52-4-201. Meetings open to the public -- Exceptions.**

- (1) A meeting is open to the public unless closed under Sections [52-4-204](#), [52-4-205](#), and [52-4-206](#).
- (2) (a) A meeting that is open to the public includes a workshop or an executive session of a public body in which a quorum is present, unless closed in accordance with this chapter.
  - (b) A workshop or an executive session of a public body in which a quorum is present that is held on the same day as a regularly scheduled public meeting of the public body may only be held at the location where the public body is holding the regularly scheduled public meeting unless:
    - (i) the workshop or executive session is held at the location where the public body holds its regularly scheduled public meetings but, for that day, the regularly scheduled public meeting is being held at different location;
    - (ii) any of the meetings held on the same day is a site visit or a traveling tour and, in accordance with this chapter, public notice is given;
    - (iii) the workshop or executive session is an electronic meeting conducted according to the requirements of Section [52-4-207](#); or
    - (iv) it is not practicable to conduct the workshop or executive session at the regular location of the public body's open meetings due to an emergency or extraordinary circumstances.

**52-4-202. Public notice of meetings -- Emergency meetings.**

- (1) (a) (i) A public body shall give not less than 24 hours' public notice of each meeting.  
(ii) A specified body shall give not less than 24 hours' public notice of each meeting that the specified body holds on the capitol hill complex.
- (b) The public notice required under Subsection [\(1\)\(a\)](#) shall include the meeting:
  - (i) agenda;
  - (ii) date;
  - (iii) time; and
  - (iv) place.
- (2) (a) In addition to the requirements under Subsection [\(1\)](#), a public body which holds regular meetings that are scheduled in advance over the course of a year shall give public notice at least once each year of its annual meeting schedule as provided in this section.
- (b) The public notice under Subsection [\(2\)\(a\)](#) shall specify the date, time, and place of the scheduled meetings.
- (3) (a) A public body or specified body satisfies a requirement for public notice by:
  - (i) posting written notice:
    - (A) except for an electronic meeting held without an anchor location under Subsection [52-4-207\(4\)](#), at the principal office of the public body or specified body, or if no principal office exists, at the building where the meeting is to be held; and
    - (B) on the Utah Public Notice Website created under Section [63A-16-601](#); and
  - (ii) providing notice to:
    - (A) at least one newspaper of general circulation within the geographic jurisdiction of the public body; or
    - (B) a local media correspondent.
- (b) A public body or specified body is in compliance with the provisions of Subsection [\(3\)\(a\)\(ii\)](#) by providing notice to a newspaper or local media correspondent under the provisions of Subsection [63A-16-601\(4\)\(d\)](#).
- (c) A public body whose limited resources make compliance with Subsection [\(3\)\(a\)\(i\)\(B\)](#) difficult may request the Division of Archives and Records Service, created in Section [63A-12-101](#), to provide technical assistance to help the public body in its effort to comply.
- (4) A public body and a specified body are encouraged to develop and use additional electronic means to provide notice of their meetings under Subsection [\(3\)](#).
- (5) (a) The notice requirement of Subsection [\(1\)](#) may be disregarded if:

- (i) because of unforeseen circumstances it is necessary for a public body or specified body to hold an emergency meeting to consider matters of an emergency or urgent nature; and
- (ii) the public body or specified body gives the best notice practicable of:
  - (A) the time and place of the emergency meeting; and
  - (B) the topics to be considered at the emergency meeting.
- (b) An emergency meeting of a public body may not be held unless:
  - (i) an attempt has been made to notify all the members of the public body; and
  - (ii) a majority of the members of the public body approve the meeting.
- (6) (a) A public notice that is required to include an agenda under Subsection [\(1\)](#) shall provide reasonable specificity to notify the public as to the topics to be considered at the meeting. Each topic shall be listed under an agenda item on the meeting agenda.
- (b) Subject to the provisions of Subsection [\(6\)\(c\)](#), and at the discretion of the presiding member of the public body, a topic raised by the public may be discussed during an open meeting, even if the topic raised by the public was not included in the agenda or advance public notice for the meeting.
- (c) Except as provided in Subsection [\(5\)](#), relating to emergency meetings, a public body may not take final action on a topic in an open meeting unless the topic is:
  - (i) listed under an agenda item as required by Subsection [\(6\)\(a\)](#); and
  - (ii) included with the advance public notice required by this section.
- (7) Except as provided in this section, this chapter does not apply to a specified body.

**52-4-203. Minutes of open meetings -- Public records -- Recording of meetings.**

- (1) Except as provided under Subsection [\(7\)](#), written minutes and a recording shall be kept of all open meetings.
- (2) (a) Written minutes of an open meeting shall include:
  - (i) the date, time, and place of the meeting;
  - (ii) the names of members present and absent;
  - (iii) the substance of all matters proposed, discussed, or decided by the public body which may include a summary of comments made by members of the public body;
  - (iv) a record, by individual member, of each vote taken by the public body;
  - (v) the name of each person who:
    - (A) is not a member of the public body; and
    - (B) after being recognized by the presiding member of the public body, provided testimony or comments to the public body;

- (vi) the substance, in brief, of the testimony or comments provided by the public under Subsection [\(2\)\(a\)\(v\)](#); and
  - (vii) any other information that is a record of the proceedings of the meeting that any member requests be entered in the minutes or recording.
- (b) A public body may satisfy the requirement under Subsection [\(2\)\(a\)\(iii\)](#) or [\(vi\)](#) that minutes include the substance of matters proposed, discussed, or decided or the substance of testimony or comments by maintaining a publicly available online version of the minutes that provides a link to the meeting recording at the place in the recording where the matter is proposed, discussed, or decided or the testimony or comments provided.
- (3) A recording of an open meeting shall:
- (a) be a complete and unedited record of all open portions of the meeting from the commencement of the meeting through adjournment of the meeting; and
  - (b) be properly labeled or identified with the date, time, and place of the meeting.
- (4) (a) As used in this Subsection [\(4\)](#):
- (i) "Approved minutes" means written minutes:
    - (A) of an open meeting; and
    - (B) that have been approved by the public body that held the open meeting.
  - (ii) "Electronic information" means information presented or provided in an electronic format.
  - (iii) "Pending minutes" means written minutes:
    - (A) of an open meeting; and
    - (B) that have been prepared in draft form and are subject to change before being approved by the public body that held the open meeting.
  - (iv) "Specified local public body" means a legislative body of a county, city, town, or metro township.
  - (v) "State public body" means a public body that is an administrative, advisory, executive, or legislative body of the state.
  - (vi) "State website" means the Utah Public Notice Website created under Section [63A-16-601](#).
- (b) Pending minutes, approved minutes, and a recording of a public meeting are public records under [Title 63G, Chapter 2, Government Records Access and Management Act](#).
- (c) Pending minutes shall contain a clear indication that the public body has not yet approved the minutes or that the minutes are subject to change until the public body approves them.
- (d) A public body shall require an individual who, at an open meeting of the public body, publicly presents or provides electronic information, relating to an item on the public body's meeting agenda, to provide the public body, at the time of the

meeting, an electronic or hard copy of the electronic information for inclusion in the public record.

- (e) A state public body shall:
  - (i) make pending minutes available to the public within 30 days after holding the open meeting that is the subject of the pending minutes;
  - (ii) within three business days after approving written minutes of an open meeting:
    - (A) post to the state website a copy of the approved minutes and any public materials distributed at the meeting;
    - (B) make the approved minutes and public materials available to the public at the public body's primary office; and
    - (C) if the public body provides online minutes under Subsection [\(2\)\(b\)](#), post approved minutes that comply with Subsection [\(2\)\(b\)](#) and the public materials on the public body's website; and
  - (iii) within three business days after holding an open meeting, post on the state website an audio recording of the open meeting, or a link to the recording.
- (f) A specified local public body shall:
  - (i) make pending minutes available to the public within 30 days after holding the open meeting that is the subject of the pending minutes;
  - (ii) within three business days after approving written minutes of an open meeting, post and make available a copy of the approved minutes and any public materials distributed at the meeting, as provided in Subsection [\(4\)\(e\)\(ii\)](#); and
  - (iii) within three business days after holding an open meeting, make an audio recording of the open meeting available to the public for listening.
- (g) A public body that is not a state public body or a specified local public body shall:
  - (i) make pending minutes available to the public within a reasonable time after holding the open meeting that is the subject of the pending minutes;
  - (ii) within three business days after approving written minutes of an open meeting:
    - (A) post and make available a copy of the approved minutes and any public materials distributed at the meeting, as provided in Subsection [\(4\)\(e\)\(ii\)](#); or
    - (B) comply with Subsections [\(4\)\(e\)\(ii\)\(B\)](#) and [\(C\)](#) and post to the state website a link to a website on which the approved minutes and any public materials distributed at the meeting are posted; and
  - (iii) within three business days after holding an open meeting, make an audio recording of the open meeting available to the public for listening.
- (h) A public body shall establish and implement procedures for the public body's approval of the written minutes of each meeting.



- (i) Approved minutes of an open meeting are the official record of the meeting.
- (5) All or any part of an open meeting may be independently recorded by any person in attendance if the recording does not interfere with the conduct of the meeting.
- (6) The written minutes or recording of an open meeting that are required to be retained permanently shall be maintained in or converted to a format that meets long-term records storage requirements.
- (7) Notwithstanding Subsection [\(1\)](#), a recording is not required to be kept of:
  - (a) an open meeting that is a site visit or a traveling tour, if no vote or action is taken by the public body; or
  - (b) an open meeting of a local district under [Title 17B, Limited Purpose Local Government Entities - Local Districts](#), or special service district under [Title 17D, Chapter 1, Special Service District Act](#), if the district's annual budgeted expenditures for all funds, excluding capital expenditures and debt service, are \$50,000 or less.

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

- (1) A closed meeting may be held if:
  - (a) (i) a quorum is present;
  - (ii) the meeting is an open meeting for which notice has been given under Section [52-4-202](#); and
  - (iii) (A) two-thirds of the members of the public body present at the open meeting vote to approve closing the meeting;
  - (B) for a meeting that is required to be closed under Section [52-4-205](#), if a majority of the members of the public body present at an open meeting vote to approve closing the meeting;
  - (C) for an ethics committee of the Legislature that is conducting an open meeting for the purpose of reviewing an ethics complaint, a majority of the members present vote to approve closing the meeting for the purpose of seeking or obtaining legal advice on legal, evidentiary, or procedural matters, or for conducting deliberations to reach a decision on the complaint; or
  - (D) for the Political Subdivisions Ethics Review Commission established in Section [63A-15-201](#) that is conducting an open meeting for the purpose of reviewing an ethics complaint in accordance with Section [63A-15-701](#), a majority of the members present vote to approve closing the meeting for the purpose of seeking or obtaining legal advice on legal, evidentiary, or procedural matters, or for conducting deliberations to reach a decision on the complaint; or
- (b) (i) for the Independent Legislative Ethics Commission, the closed meeting is convened for the purpose of conducting business relating to the receipt or

review of an ethics complaint, provided that public notice of the closed meeting is given under Section [52-4-202](#), with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to the receipt or review of ethics complaints";

(ii) for the Political Subdivisions Ethics Review Commission established in Section [63A-15-201](#), the closed meeting is convened for the purpose of conducting business relating to the preliminary review of an ethics complaint in accordance with Section [63A-15-602](#), provided that public notice of the closed meeting is given under Section [52-4-202](#), with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to the review of ethics complaints"; or

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

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

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

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

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

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

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

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

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

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

#### **52-4-205. Purposes of closed meetings.**

(1) A closed meeting described under Section [52-4-204](#) may only be held for:

(a) except as provided in Subsection (3), discussion of the character, professional competence, or physical or mental health of an individual;

(b) strategy sessions to discuss collective bargaining;

- (c) strategy sessions to discuss pending or reasonably imminent litigation;
- (d) strategy sessions to discuss the purchase, exchange, or lease of real property, including any form of a water right or water shares, if public discussion of the transaction would:
  - (i) disclose the appraisal or estimated value of the property under consideration;  
or
  - (ii) prevent the public body from completing the transaction on the best possible terms;
- (e) strategy sessions to discuss the sale of real property, including any form of a water right or water shares, if:
  - (i) public discussion of the transaction would:
    - (A) disclose the appraisal or estimated value of the property under consideration; or
    - (B) prevent the public body from completing the transaction on the best possible terms;
  - (ii) the public body previously gave public notice that the property would be offered for sale; and
  - (iii) the terms of the sale are publicly disclosed before the public body approves the sale;
- (f) discussion regarding deployment of security personnel, devices, or systems;
- (g) investigative proceedings regarding allegations of criminal misconduct;
- (h) as relates to the Independent Legislative Ethics Commission, conducting business relating to the receipt or review of ethics complaints;
- (i) as relates to an ethics committee of the Legislature, a purpose permitted under Subsection [52-4-204\(1\)\(a\)\(iii\)\(C\)](#);
- (j) as relates to the Independent Executive Branch Ethics Commission created in Section [63A-14-202](#), conducting business relating to an ethics complaint;
- (k) as relates to a county legislative body, discussing commercial information as defined in Section [59-1-404](#);
- (l) as relates to the Utah Higher Education Assistance Authority and its appointed board of directors, discussing fiduciary or commercial information as defined in Section [53B-12-102](#);
- (m) deliberations, not including any information gathering activities, of a public body acting in the capacity of:
  - (i) an evaluation committee under [Title 63G, Chapter 6a, Utah Procurement Code](#), during the process of evaluating responses to a solicitation, as defined in Section [63G-6a-103](#);
  - (ii) a protest officer, defined in Section [63G-6a-103](#), during the process of making a decision on a protest under [Title 63G, Chapter 6a, Part 16, Protests](#); or

- (iii) a procurement appeals panel under [Title 63G, Chapter 6a, Utah Procurement Code](#), during the process of deciding an appeal under [Title 63G, Chapter 6a, Part 17, Procurement Appeals Board](#);
  - (n) the purpose of considering information that is designated as a trade secret, as defined in Section [13-24-2](#), if the public body's consideration of the information is necessary in order to properly conduct a procurement under [Title 63G, Chapter 6a, Utah Procurement Code](#);
  - (o) the purpose of discussing information provided to the public body during the procurement process under [Title 63G, Chapter 6a, Utah Procurement Code](#), if, at the time of the meeting:
    - (i) the information may not, under [Title 63G, Chapter 6a, Utah Procurement Code](#), be disclosed to a member of the public or to a participant in the procurement process; and
    - (ii) the public body needs to review or discuss the information in order to properly fulfill its role and responsibilities in the procurement process;
  - (p) as relates to the governing board of a governmental nonprofit corporation, as that term is defined in Section [11-13a-102](#), the purpose of discussing information that is designated as a trade secret, as that term is defined in Section [13-24-2](#), if:
    - (i) public knowledge of the discussion would reasonably be expected to result in injury to the owner of the trade secret; and
    - (ii) discussion of the information is necessary for the governing board to properly discharge the board's duties and conduct the board's business; or
  - (q) a purpose for which a meeting is required to be closed under Subsection [\(2\)](#).
- (2) The following meetings shall be closed:
- (a) a meeting of the Health and Human Services Interim Committee to review a report described in Subsection [62A-16-301\(1\)\(a\)](#), and the responses to the report described in Subsections [62A-16-301\(2\)](#) and [\(4\)](#);
  - (b) a meeting of the Child Welfare Legislative Oversight Panel to:
    - (i) review a report described in Subsection [62A-16-301\(1\)\(a\)](#), and the responses to the report described in Subsections [62A-16-301\(2\)](#) and [\(4\)](#); or
    - (ii) review and discuss an individual case, as described in Subsection [62A-4a-207\(5\)](#);
  - (c) a meeting of the Opioid and Overdose Fatality Review Committee, created in Section [26-7-13](#), to review and discuss an individual case, as described in Subsection [26-7-13\(10\)](#);
  - (d) a meeting of a conservation district as defined in Section [17D-3-102](#) for the purpose of advising the Natural Resource Conservation Service of the United States Department of Agriculture on a farm improvement project if the discussed information is protected information under federal law;

- (e) a meeting of the Compassionate Use Board established in Section [26-61a-105](#) for the purpose of reviewing petitions for a medical cannabis card in accordance with Section [26-61a-105](#); and
  - (f) a meeting of the Colorado River Authority of Utah if:
    - (i) the purpose of the meeting is to discuss an interstate claim to the use of the water in the Colorado River system; and
    - (ii) failing to close the meeting would:
      - (A) reveal the contents of a record classified as protected under Subsection [63G-2-305\(82\)](#);
      - (B) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;
      - (C) 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
      - (D) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system.
- (3) In a closed meeting, a public body may not:
- (a) interview a person applying to fill an elected position;
  - (b) discuss filling a midterm vacancy or temporary absence governed by [Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office](#); or
  - (c) discuss the character, professional competence, or physical or mental health of the person whose name was submitted for consideration to fill a midterm vacancy or temporary absence governed by [Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office](#).

**52-4-206. Record of closed meetings.**

- (1) Except as provided under Subsection [\(6\)](#), if a public body closes a meeting under Subsection [52-4-205\(1\)](#), the public body:
  - (a) shall make a recording of the closed portion of the meeting; and
  - (b) may keep detailed written minutes that disclose the content of the closed portion of the meeting.
- (2) A recording of a closed meeting shall be complete and unedited from the commencement of the closed meeting through adjournment of the closed meeting.
- (3) The recording and any minutes of a closed meeting shall include:
  - (a) the date, time, and place of the meeting;
  - (b) the names of members present and absent; and
  - (c) the names of all others present except where the disclosure would infringe on the confidentiality necessary to fulfill the original purpose of closing the meeting.

- (4) Minutes or recordings of a closed meeting that are required to be retained permanently shall be maintained in or converted to a format that meets long-term records storage requirements.
- (5) A recording, transcript, report, and written minutes of a closed meeting are protected records under [Title 63G, Chapter 2, Government Records Access and Management Act](#), except that the records may be disclosed under a court order only as provided under Section [52-4-304](#).
- (6) If a public body closes a meeting exclusively for the purposes described under Subsection [52-4-205\(1\)\(a\)](#), [\(1\)\(f\)](#), or [\(2\)](#):
  - (a) the person presiding shall sign a sworn statement affirming that the sole purpose for closing the meeting was to discuss the purposes described under Subsection [52-4-205\(1\)\(a\)](#), [\(1\)\(f\)](#), or [\(2\)](#); and
  - (b) the provisions of Subsection [\(1\)](#) of this section do not apply.

**52-4-207. Electronic meetings -- Authorization -- Requirements.**

- (1) Except as otherwise provided for a charter school in Section [52-4-209](#), a public body may convene and conduct an electronic meeting in accordance with this section.
- (2) (a) A public body may not hold an electronic meeting unless the public body has adopted a resolution, rule, or ordinance governing the use of electronic meetings.
  - (b) The resolution, rule, or ordinance may:
    - (i) prohibit or limit electronic meetings based on budget, public policy, or logistical considerations;
    - (ii) require a quorum of the public body to:
      - (A) be present at a single anchor location for the meeting; and
      - (B) vote to approve establishment of an electronic meeting in order to include other members of the public body through an electronic connection;
    - (iii) require a request for an electronic meeting to be made by a member of a public body up to three days prior to the meeting to allow for arrangements to be made for the electronic meeting;
    - (iv) restrict the number of separate connections for members of the public body that are allowed for an electronic meeting based on available equipment capability; or
    - (v) establish other procedures, limitations, or conditions governing electronic meetings not in conflict with this section.
- (3) A public body that convenes or conducts an electronic meeting shall:
  - (a) give public notice of the meeting:
    - (i) in accordance with Section [52-4-202](#); and
    - (ii) except for an electronic meeting under Subsection [\(5\)\(a\)](#), post written notice at the anchor location; and

- (b) in addition to giving public notice required by Subsection [\(3\)\(a\)](#), provide:
  - (i) notice of the electronic meeting to the members of the public body at least 24 hours before the meeting so that they may participate in and be counted as present for all purposes, including the determination that a quorum is present; and
  - (ii) a description of how the members will be connected to the electronic meeting.
- (4) (a) Except as provided in Subsection [\(5\)](#), a public body that convenes and conducts an electronic meeting shall provide space and facilities at an anchor location for members of the public to attend the open portions of the meeting.
  - (b) A public body that convenes and conducts an electronic meeting may provide means by which members of the public who are not physically present at the anchor location may attend the meeting remotely by electronic means.
- (5) Subsection [\(4\)\(a\)](#) does not apply to an electronic meeting if:
  - (a) (i) the chair of the public body determines that:
    - (A) conducting the meeting as provided in Subsection [\(4\)\(a\)](#) presents a substantial risk to the health or safety of those present or who would otherwise be present at the anchor location; or
    - (B) the location where the public body would normally meet has been ordered closed to the public for health or safety reasons; and
  - (ii) the public notice for the meeting includes:
    - (A) a statement describing the chair's determination under Subsection [\(5\)\(a\)\(i\)](#);
    - (B) a summary of the facts upon which the chair's determination is based; and
    - (C) information on how a member of the public may attend the meeting remotely by electronic means; or
  - (b) (i) during the course of the electronic meeting, the chair:
    - (A) determines that continuing to conduct the electronic meeting as provided in Subsection [\(4\)\(a\)](#) presents a substantial risk to the health or safety of those present at the anchor location; and
    - (B) announces during the electronic meeting the chair's determination under Subsection [\(5\)\(b\)\(i\)\(A\)](#) and states a summary of the facts upon which the determination is made; and
  - (ii) in convening the electronic meeting, the public body has provided means by which members of the public who are not physically present at the anchor location may attend the electronic meeting remotely by electronic means.
- (6) A determination under Subsection [\(5\)\(a\)\(i\)](#) expires 30 days after the day on which the chair of the public body makes the determination.



- (7) Compliance with the provisions of this section by a public body constitutes full and complete compliance by the public body with the corresponding provisions of Sections [52-4-201](#) and [52-4-202](#).

**52-4-208. Chance or social meetings.**

- (1) This chapter does not apply to any chance meeting or a social meeting.
- (2) A chance meeting or social meeting may not be used to circumvent the provisions of this chapter.

**52-4-210. Electronic message transmissions.**

Nothing in this chapter shall be construed to restrict a member of a public body from transmitting an electronic message to other members of the public body at a time when the public body is not convened in an open meeting.

**52-4-301. Disruption of meetings.**

This chapter does not prohibit the removal of any person from a meeting, if the person willfully disrupts the meeting to the extent that orderly conduct is seriously compromised.

**52-4-302. Suit to void final action -- Limitation -- Exceptions.**

(1) (a) Any final action taken in violation of Section 52-4-201, 52-4-202, or 52-4-207 is voidable by a court of competent jurisdiction.

(b) A court may not void a final action taken by a public body for failure to comply with the posting written notice requirements under Subsection 52-4-202(3)(a)(i)(B) if:

- (i) the public body otherwise complies with the provisions of Section 52-4-202; and
- (ii) the failure was a result of unforeseen Internet hosting or communication technology failure.

(2) Except as provided under Subsection (3), a suit to void final action shall be commenced within 90 days after the date of the action.

(3) A suit to void final action concerning the issuance of bonds, notes, or other evidences of indebtedness shall be commenced within 30 days after the date of the action.

**52-4-303. Enforcement of chapter -- Suit to compel compliance.**

- (1) The attorney general and county attorneys of the state shall enforce this chapter.
- (2) The attorney general shall, on at least a yearly basis, provide notice to all public bodies that are subject to this chapter of any material changes to the requirements for the conduct of meetings under this chapter.
- (3) A person denied any right under this chapter may commence suit in a court of competent jurisdiction to:
- (a) compel compliance with or enjoin violations of this chapter; or
- (b) determine the chapter's applicability to discussions or decisions of a public body.
- (4) The court may award reasonable attorney fees and court costs to a successful plaintiff.

**52-4-304. Action challenging closed meeting.**

- (1) Notwithstanding the procedure established under Subsection 63-2-202(7), in any

action brought under the authority of this chapter to challenge the legality of a closed meeting held by a public body, the court shall:

- (a) review the recording or written minutes of the closed meeting in camera; and
- (b) decide the legality of the closed meeting.

(2) (a) If the judge determines that the public body did not violate Section 52-4-204, 52-4-205, or 52-4-206 regarding closed meetings, the judge shall dismiss the case without disclosing or revealing any information from the recording or minutes of the closed meeting.

(b) If the judge determines that the public body violated Section 52-4-204, 52-4-205, or 52-4-206 regarding closed meetings, the judge shall publicly disclose or reveal from the recording or minutes of the closed meeting all information about the portion of the meeting that was illegally closed.

**52-4-305. Criminal penalty for closed meeting violation.**

In addition to any other penalty under this chapter, a member of a public body who knowingly or intentionally violates or who knowingly or intentionally abets or advises a violation of any of the closed meeting provisions of this chapter is guilty of a class B misdemeanor.