

Jefferson Moss proposes the following substitute bill:

Data Privacy Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jefferson Moss

Senate Sponsor:

1

2
3 **LONG TITLE**

4 **General Description:**

5 This bill modifies provisions related to governmental data privacy and privacy oversight.

6 **Highlighted Provisions:**

7 This bill:

- 8 ▶ defines terms;
- 9 ▶ modifies requirements for privacy annotations and privacy notices;
- 10 ▶ modifies requirements for government website privacy notices;
- 11 ▶ modifies provisions related to data breach notification requirements;
- 12 ▶ renames and modifies duties of the state privacy auditor;
- 13 ▶ modifies enforcement provisions related to privacy requirements; and
- 14 ▶ makes technical and conforming changes.

15 **Money Appropriated in this Bill:**

16 None

17 **Other Special Clauses:**

18 This bill provides a special effective date.

19 **Utah Code Sections Affected:**

20 AMENDS:

- 21 **63A-12-100.5**, as last amended by Laws of Utah 2023, Chapter 173
- 22 **63A-12-103**, as last amended by Laws of Utah 2021, Chapter 344
- 23 **63A-12-104**, as repealed and reenacted by Laws of Utah 2023, Chapter 173
- 24 **63A-12-108**, as last amended by Laws of Utah 2023, Chapter 173
- 25 **63A-19-101**, as enacted by Laws of Utah 2024, Chapter 417
- 26 **63A-19-102**, as enacted by Laws of Utah 2024, Chapter 417
- 27 **63A-19-301**, as enacted by Laws of Utah 2024, Chapter 417
- 28 **63A-19-401**, as enacted by Laws of Utah 2024, Chapter 417

29 **63A-19-402**, as enacted by Laws of Utah 2024, Chapter 417
30 **63A-19-405**, as enacted by Laws of Utah 2024, Chapter 417
31 **63A-19-406**, as enacted by Laws of Utah 2024, Chapter 417
32 **63A-19-501**, as enacted by Laws of Utah 2024, Chapter 417
33 **63A-19-601**, as enacted by Laws of Utah 2024, Chapter 417
34 **63G-2-103**, as last amended by Laws of Utah 2024, Chapters 18, 465, 509, and 522
35 **63G-2-307**, as last amended by Laws of Utah 2023, Chapter 173
36 **63G-2-601**, as last amended by Laws of Utah 2023, Chapter 173
37 **67-3-1**, as last amended by Laws of Utah 2024, Chapters 3, 158
38 **67-3-13**, as last amended by Laws of Utah 2024, Chapter 417

39 ENACTS:

40 **63A-19-401.1**, Utah Code Annotated 1953
41 **63A-19-401.2**, Utah Code Annotated 1953
42 **63A-19-401.3**, Utah Code Annotated 1953
43 **63A-19-401.4**, Utah Code Annotated 1953
44 **63A-19-402.5**, Utah Code Annotated 1953
45 **63A-19-602**, Utah Code Annotated 1953

46 RENUMBERS AND AMENDS:

47 **63A-16-110**, (Renumbered from 63D-2-105, as last amended by Laws of Utah 2024,
48 Chapter 426)
49 **63A-19-203**, (Renumbered from 63C-24-201, as last amended by Laws of Utah 2024,
50 Chapter 417)
51 **63A-19-204**, (Renumbered from 63C-24-202, as last amended by Laws of Utah 2024,
52 Chapter 417)
53 **78A-2-233**, (Renumbered from 63D-2-104, as last amended by Laws of Utah 2008,
54 Chapter 3)

55 REPEALS:

56 **63A-12-115**, as last amended by Laws of Utah 2024, Chapter 417
57 **63C-24-101**, as last amended by Laws of Utah 2024, Chapter 417
58 **63C-24-102**, as last amended by Laws of Utah 2024, Chapter 417
59 **63D-2-101**, as enacted by Laws of Utah 2004, Chapter 175
60 **63D-2-102**, as last amended by Laws of Utah 2024, Chapter 426
61 **63D-2-103**, as last amended by Laws of Utah 2008, Chapter 382

62

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

64 Section 1. Section **63A-12-100.5** is amended to read:

65 **63A-12-100.5 . Definitions.**

66 (1) Except as provided under Subsection (2), the definitions in Section 63G-2-103 apply to
67 this chapter.

68 (2) As used in this chapter:

69 (a) "Chief administrative officer" means the individual designated by a governmental
70 entity to perform the duties described in Section 63A-12-103.

71 (b) "Division" means the Division of Archives and Records Service.

72 ~~[(b)(i) "Executive branch agency" means the same as that term is defined in Section~~
73 ~~63A-16-102.]~~

74 ~~[(ii) "Executive branch agency" includes a state agency, as defined in Subsection~~
75 ~~67-1-17(1)(d).]~~

76 ~~[(e)(i) "Personal identifying information" means information about an individual that:]~~

77 ~~[(A) identifies, or can be used to identify, an individual;]~~

78 ~~[(B) distinguishes an individual from one or more other individuals; or]~~

79 ~~[(C) is, or can be, logically associated with other information or data, through~~
80 ~~technology or otherwise, to identify an individual or distinguish an individual~~
81 ~~from one or more other individuals.]~~

82 ~~[(ii) "Personal identifying information" includes information identified as personal~~
83 ~~identifying information in accordance with the rules described in Section~~
84 ~~63A-12-104.]~~

85 ~~[(d) "Privacy annotation" means a summary, described in Subsection 63A-12-115(2) and~~
86 ~~rules made by the executive director under Subsection 63A-12-104(2), that, for each~~
87 ~~record series that an executive branch agency collects, maintains, or uses:]~~

88 ~~[(i) discloses whether the record series contains personal identifying information; and]~~

89 ~~[(ii) if the record series contains personal identifying information, includes the~~
90 ~~information described in Subsection 63A-12-115(2)(b).]~~

91 ~~[(e)] (c) "Record" means:~~

92 (i) the same as that term is defined in Section 63G-2-103; or

93 (ii) a video or audio recording of an interview, or a transcript of the video or audio
94 recording, that is conducted at a Children's Justice Center established under
95 Section 67-5b-102, the release of which is governed by Section 77-37-4.

96 ~~[(f)] (d) "State archives" means the Division of Archives and Records Service.~~

97 ~~[(g)]~~ (e) "Vulnerable adult" means the same as that term is defined in Section 26B-6-201.

98 ~~[(h)]~~ (f) "Vulnerable record" means a record or data relating to:

99 (i) national security interests;

100 (ii) the care, custody, or control of a child;

101 (iii) a fiduciary trust over money;

102 (iv) health care of a child; or

103 (v) the following, in relation to a vulnerable adult:

104 (A) protection, health care, or other care; or

105 (B) the provision of food, shelter, clothing, assistance with an activity of daily
106 living, or assistance with financial resource management.

107 Section 2. Section **63A-12-103** is amended to read:

108 **63A-12-103 . Duties of governmental entities.**

109 ~~[The]~~ Each governmental entity shall designate a chief administrative officer ~~[of each~~
110 ~~governmental entity shall]~~ who shall be responsible to:

111 (1) establish and maintain an active, continuing program for the economical and efficient
112 management of the governmental entity's records as provided by this chapter and Title
113 63G, Chapter 2, Government Records Access and Management Act;

114 (2) appoint one or more records officers who will be trained to work with the state archives
115 in the care, maintenance, scheduling, disposal, classification, designation, access, and
116 preservation of records;

117 (3) ensure that officers and employees of the governmental entity that receive or process
118 records requests receive required training on the procedures and requirements of this
119 chapter and Title 63G, Chapter 2, Government Records Access and Management Act;

120 (4) make and maintain adequate and proper documentation of the organization, functions,
121 policies, decisions, procedures, and essential transactions of the governmental entity
122 designed to furnish information to protect the privacy, transparency, legal, and financial
123 rights of persons directly affected by the entity's activities;

124 (5) submit to the state archivist proposed schedules of records for final approval by the
125 Records Management Committee created in Section 63A-12-112;

126 (6) cooperate with the state archivist in conducting surveys made by the state archivist;

127 (7) comply with rules issued by the Department of Government Operations as provided by
128 Section 63A-12-104;

129 (8) report to the state archives;

130 (a) ~~[-]~~ the designation of each record series that [it] the governmental entity maintains;

- 131 ~~[(9) report to the state archives]~~
- 132 (b) the classification of each record series that ~~[is]~~ the governmental entity has classified;
- 133 and
- 134 (c) the name of the governmental entity's:
- 135 (i) chief administrative officer; and
- 136 (ii) records officers;
- 137 (9) ensure that the governmental entity complies with the requirements found in:
- 138 (a) this part;
- 139 (b) Title 63G, Chapter 2, Government Records Access and Management Act; and
- 140 (c) Chapter 19, Part 4, Duties of Governmental Entities; and
- 141 (10) establish and report to the state archives retention schedules for objects that the
- 142 governmental entity determines are not defined as a record under Section 63G-2-103,
- 143 but that have historical or evidentiary value.
- 144 Section 3. Section **63A-12-104** is amended to read:
- 145 **63A-12-104 . Rulemaking authority.**
- 146 ~~[(4)]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- 147 ~~[(a)]~~ (1) the state archivist may~~[-for an executive branch agency,]~~ make rules establishing
- 148 procedures for the collection, storage, designation, classification, access, mediation for
- 149 records access, and management of records under this chapter and Title 63G, Chapter 2,
- 150 Government Records Access and Management Act; and
- 151 ~~[(b)]~~ (2) a ~~[department]~~ governmental entity may make rules, policies, or ordinances
- 152 specifying at which level within the ~~[department]~~ governmental entity the requirements
- 153 described in this chapter will be undertaken.
- 154 ~~[(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the~~
- 155 ~~executive director shall, in consultation with the state archivist and the chief privacy~~
- 156 ~~officer, make rules for an executive branch agency that establish:]~~
- 157 ~~[(a) requirements for making an inventory of each record series that contains personal~~
- 158 ~~identifying information, including:]~~
- 159 ~~[(i) information collected as part of the inventory;]~~
- 160 ~~[(ii) regularly reviewing, updating, and maintaining the inventory; and]~~
- 161 ~~[(iii) reporting the inventory to the chief privacy officer;]~~
- 162 ~~[(b) a list of information, categories of information, or types of information expressly~~
- 163 ~~designated as personal identifying information, in accordance with the criteria~~
- 164 ~~described in Subsections 63A-12-100.5(2)(c)(i) through (iii);]~~

165 ~~[(e) criteria, variables, and principles for determining whether information in a record~~
 166 ~~series, not expressly designated under Subsection (2)(b), is personal identifying~~
 167 ~~information;]~~
 168 ~~[(d) a list and description of categories or types of personal identifying information that~~
 169 ~~are collected, maintained, or used by executive branch agencies; and]~~
 170 ~~[(e) requirements for the form, content, format, review, and update of a privacy~~
 171 ~~annotation.]~~
 172 ~~[(3) The rules described in Subsection (2)(b) may incorporate, by reference, a data~~
 173 ~~dictionary that a records officer appointed under Subsection 63A-12-103(2)(a) shall use~~
 174 ~~in making the determination described in Subsection (2)(c).]~~

175 Section 4. Section **63A-12-108** is amended to read:

176 **63A-12-108 . Inspection and summary of record series.**

177 ~~[(4)] State archives shall provide for public inspection of[:]~~

178 ~~[(a)] _the title and a summary description of each record series[; and] _~~

179 ~~[(b) for an executive branch agency, the privacy annotation of each record series.]~~

180 ~~[(2) The department shall:]~~

181 ~~[(a) post the data dictionary described in Subsection 63A-12-104(3) on the department's~~
 182 ~~website; and]~~

183 ~~[(b) maintain and update the data dictionary on a regular basis.]~~

184 Section 5. Section **63A-16-110**, which is renumbered from Section 63D-2-105 is renumbered
 185 and amended to read:

186 ~~[63D-2-105]~~ **63A-16-110 . Use of authorized domain extensions for government**
 187 **websites.**

188 (1) As used in this section[;] :

189 ~~(a) ["authorized top-level"]~~ "Authorized top-level domain" means any of the following
 190 ~~suffixes that [fo]llows] follow~~ the domain name in a website address:

191 ~~[(a)]~~ (i) gov;

192 ~~[(b)]~~ (ii) edu; and

193 ~~[(c)]~~ (iii) mil.

194 ~~(b)~~ "Governmental entity" means the same as that term is defined in Section 63G-2-103.

195 ~~(c)~~ "Government website" means the same as that term is defined in Section 63A-19-101.

196 ~~(d)~~ "Person" means the same as that term is defined in Section 63G-2-103.

197 ~~(e)~~ "School" means a public elementary or secondary school.

198 (2) Beginning July 1, 2025, a governmental entity shall use an authorized [~~top-level~~]

- 199 top-level domain for:
- 200 (a) the website address for the governmental entity's government website; and
- 201 (b) the email addresses used by the governmental entity and the governmental entity's
- 202 employees.
- 203 (3) Notwithstanding Subsection (2), a governmental entity may operate a website that uses
- 204 a ~~[top-level]~~ top-level domain that is not an authorized ~~[top-level]~~ top-level domain if:
- 205 (a)(i) a reasonable person would not mistake the website as the governmental entity's
- 206 primary government website; and
- 207 (ii) the ~~[governmental]~~ government website is:
- 208 (A) solely for internal use and not intended for use by members of the public;
- 209 (B) temporary and in use by the governmental entity for a period of less than one
- 210 year; or
- 211 (C) related to an event, program, or informational campaign operated by the
- 212 governmental entity in partnership with another person that is not a
- 213 governmental entity; or
- 214 (b) the governmental entity is a school district or a school that is not an institution of
- 215 higher education and the use of an authorized ~~[top-level]~~ top-level domain is
- 216 otherwise prohibited, provided that once the use of an authorized ~~[top-level]~~ top-level
- 217 domain is not otherwise prohibited, the school district or school shall transition to an
- 218 authorized ~~[top-level]~~ top-level domain within 15 months.
- 219 (4) The chief information officer appointed under Section 63A-16-201 may authorize a
- 220 waiver of the requirement in Subsection (2) if:
- 221 (a) there are extraordinary circumstances under which use of an authorized domain
- 222 extension would cause demonstrable harm to citizens or businesses; and
- 223 (b) the executive director or chief executive of the governmental entity submits a written
- 224 request to the chief information officer that includes a justification for the waiver.
- 225 Section 6. Section **63A-19-101** is amended to read:
- 226 **63A-19-101 . Definitions.**
- 227 As used in this chapter:
- 228 (1) "Anonymized data" means information that has been irreversibly modified so that there
- 229 is no possibility of using the information, alone or in combination with other
- 230 information, to identify an individual.
- 231 (2) "At-risk government employee" means the same as that term is defined in Section
- 232 63G-2-303.

- 233 (3) "Automated decision making" means using personal data to make a decision about an
234 individual through automated processing, without human review or intervention.
- 235 (4) "Biometric data" means the same as that term is defined in Section 13-61-101.
- 236 (5) "Chief administrative officer" means the same as that term is defined in Section
237 63A-12-100.5.
- 238 (6) "Chief privacy officer" means the individual appointed under Section 63A-19-302.
- 239 [~~(2)~~] (7) "Commission" means the Utah Privacy Commission established in Section [
240 63C-24-102] 63A-19-203.
- 241 (8) "Contract" means an agreement between a governmental entity and a person for goods
242 or services that involve personal data.
- 243 (9)(a) "Contractor" means a person who:
- 244 (i) has entered into a contract with a governmental entity; and
245 (ii) may process personal data under the contract.
- 246 (b) "Contractor" includes a contractor's employees, agents, or subcontractors.
- 247 [~~(3)~~] (10) "Cyber Center" means the Utah Cyber Center created in Section 63A-16-1102.
- 248 [~~(4)~~] (11) "Data breach" means the unauthorized access, acquisition, disclosure, loss of
249 access, or destruction of personal data held by a governmental entity, unless the
250 governmental entity concludes, according to standards established by the Cyber Center,
251 that there is a low probability that personal data has been compromised.
- 252 [~~(5)~~] (12) [~~"Designated governmental entity" means the same as that term is defined in~~
253 ~~Section 67-3-13.]~~ "De-identified data" means information from which personal data has
254 been removed or obscured so that the information is not readily identifiable to a specific
255 individual, and which may not be re-identified.
- 256 (13) "Genetic data" means the same as that term is defined in Section 13-60-102.
- 257 [~~(6)~~] (14) "Governing board" means the Utah Privacy Governing Board established in
258 Section 63A-19-201.
- 259 [~~(7)~~] (15) "Governmental entity" means the same as that term is defined in Section
260 63G-2-103.
- 261 (16) "Government website" means a set of related web pages that is operated by or on
262 behalf of a governmental entity and is:
- 263 (a) located under a single domain name or web address; and
264 (b) accessible directly through the Internet or by the use of a software program.
- 265 [~~(8)~~] (17)(a) "[High-risk] High-risk processing activities" means a governmental entity's
266 processing of personal data that may [result in a significant compromise to] have a

- 267 significant impact on an individual's privacy interests, based on factors that include:
- 268 ~~[(a)]~~ (i) the sensitivity of the personal data processed;
- 269 ~~[(b)]~~ (ii) the amount of personal data being processed;
- 270 ~~[(c)]~~ (iii) the individual's ability to consent to the processing of personal data; and
- 271 ~~[(d)]~~ (iv) risks of unauthorized access or use.
- 272 (b) "High-risk processing activities" may include the use of:
- 273 (i) facial recognition technology;
- 274 (ii) automated decision making;
- 275 (iii) profiling;
- 276 (iv) automated license plate readers;
- 277 (v) genetic data;
- 278 (vi) biometric data; or
- 279 (vii) geolocation data.
- 280 ~~[(9)]~~ (18) "Independent entity" means the same as that term is defined in Section 63E-1-102.
- 281 ~~[(10)]~~ (19) "Individual" means the same as that term is defined in Section 63G-2-103.
- 282 ~~[(11)]~~ (20) "Legal guardian" means:
- 283 (a) the parent of a minor; or
- 284 (b) an individual appointed by a court to be the guardian of a minor or incapacitated [
- 285 ~~person]~~ individual and given legal authority to make decisions regarding the person or
- 286 property of the minor or incapacitated ~~[person]~~ individual.
- 287 ~~[(12)]~~ (21) "Office" means the Utah Office of Data Privacy created in Section 63A-19-301.
- 288 ~~[(13)]~~ (22) "Ombudsperson" means the data privacy ombudsperson appointed under Section
- 289 63A-19-501.
- 290 (23) "Person" means the same as that term is defined in Section 63G-2-103.
- 291 ~~[(14)]~~ (24) "Personal data" means information that is linked or can be reasonably linked to
- 292 an identified individual or an identifiable individual.
- 293 (25) "Privacy annotation" means a summary of personal data contained in a record series as
- 294 described in Section 63A-19-401.1.
- 295 (26) "Privacy practice" means a governmental entity's:
- 296 (a) organizational, technical, administrative, and physical safeguards designed to protect
- 297 an individual's personal data;
- 298 (b) policies and procedures related to the acquisition, use, storage, sharing, retention,
- 299 and disposal of personal data; and
- 300 (c) practice of providing notice to an individual regarding the individual's privacy rights.

301 ~~[(14)]~~ (27) "Process," ~~[-or]~~ "processing," or "processing activity" means any operation or set
302 of operations performed on personal data, including collection, recording, organization,
303 structuring, storage, adaptation, alteration, access, retrieval, consultation, use, disclosure
304 by transmission, transfer, dissemination, alignment, combination, restriction, erasure, or
305 destruction.

306 (28) "Profiling" means the processing of personal data to evaluate or predict an individual's:

- 307 (a) economic situation;
- 308 (b) health;
- 309 (c) personal preferences;
- 310 (d) interests;
- 311 (e) reliability;
- 312 (f) behavior;
- 313 (g) location; or
- 314 (h) movements.

315 ~~[(15)]~~ (29) "Record" means the same as that term is defined in Section 63G-2-103.

316 ~~[(16)]~~ (30) "Record series" means the same as that term is defined in Section 63G-2-103.

317 ~~[(17)]~~ (31) "Retention schedule" means a governmental entity's schedule for the retention or
318 disposal of records that has been approved by the Records Management Committee
319 pursuant to Section 63A-12-113.

320 ~~[(18)]~~ (32)(a) "Sell" means an exchange of personal data for monetary consideration by a
321 governmental entity to a third party.

322 (b) "Sell" does not include a fee:

- 323 (i) charged by a governmental entity for access to a record pursuant to Section
324 63G-2-203; or
- 325 (ii) assessed in accordance with an approved fee schedule.

326 ~~[(19)]~~ (33)(a) "State agency" means the following entities that are under the direct
327 supervision and control of the governor or the lieutenant governor:

- 328 (i) a department;
- 329 (ii) a commission;
- 330 (iii) a board;
- 331 (iv) a council;
- 332 (v) an institution;
- 333 (vi) an officer;
- 334 (vii) a corporation;

- 335 (viii) a fund;
- 336 (ix) a division;
- 337 (x) an office;
- 338 (xi) a committee;
- 339 (xii) an authority;
- 340 (xiii) a laboratory;
- 341 (xiv) a library;
- 342 (xv) a bureau;
- 343 (xvi) a panel;
- 344 (xvii) another administrative unit of the state; or
- 345 (xviii) an agent of an entity described in Subsections [(19) (33)(a)(i) through (xvii).
- 346 (b) "State agency" does not include:
- 347 (i) the legislative branch;
- 348 (ii) the judicial branch;
- 349 (iii) an executive branch agency within the Office of the Attorney General, the state
- 350 auditor, the state treasurer, or the State Board of Education; or
- 351 (iv) an independent entity.
- 352 [(20) (34) ["State privacy officer" means the individual described in Section 67-3-13] "State
- 353 privacy auditor" means the same as that term is defined in Section 67-3-13.
- 354 (35) "Synthetic data" means artificial data that:
- 355 (a) is generated from personal data; and
- 356 (b) models the statistical properties of the original personal data.
- 357 (36) "User" means an individual who accesses a government website.
- 358 (37)(a) "User data" means any information about a user that is automatically collected
- 359 by a government website when a user accesses the government website.
- 360 (b) "User data" includes information that identifies:
- 361 (i) a user as having requested or obtained specific materials or services from a
- 362 government website;
- 363 (ii) Internet sites visited by a user;
- 364 (iii) the contents of a user's data-storage device;
- 365 (iv) any identifying code linked to a user of a government website; and
- 366 (v) a user's:
- 367 (A) IP or Mac address; or
- 368 (B) session ID.

369 (38) "Website tracking technology" means any tool used by a government website to:

370 (a) monitor a user's behavior; or

371 (b) collect user data.

372 Section 7. Section **63A-19-102** is amended to read:

373 **63A-19-102 . State data privacy policy.**

374 It is the policy of Utah that:

375 (1) an individual has a fundamental interest in and inherent expectation of privacy

376 regarding the individual's personal data that the individual provides to a governmental
377 entity;

378 (2) a governmental entity shall [aet] process personal data in a manner [~~respecting personal~~
379 ~~data provided to the governmental entity~~]that is consistent with the interests and
380 expectations described in Subsection (1);

381 (3) the state shall encourage innovation to enhance the ability of a governmental entity to:

382 (a) protect the privacy of an individual's personal data;

383 (b) provide clear notice to an individual regarding the governmental entity's processing
384 of the individual's personal data;

385 (c) process personal data only for specified, lawful purposes and only process the
386 minimum amount of an individual's personal data necessary to achieve those
387 purposes;

388 (d) implement appropriate consent mechanisms regarding the uses of an individual's
389 personal data;

390 (e) provide an individual with the ability to access, control, and request corrections to
391 the individual's personal data held by a governmental entity;

392 (f) maintain appropriate safeguards to protect the confidentiality, integrity, and
393 availability of personal data;

394 (g) account for compliance with privacy related laws, rules, and regulations that are
395 specific to a particular governmental entity, program, or personal data; and

396 (h) meet a governmental entity's and an individual's business and service needs;

397 (4) the state shall promote training and education programs for employees of governmental
398 entities focused on:

399 (a) data privacy best practices, obligations, and responsibilities; and

400 (b) the overlapping relationship with privacy, records management, and security; and

401 (5) the state shall promote consistent terminology in data privacy requirements across
402 governmental entities.

403 Section 8. Section **63A-19-203**, which is renumbered from Section 63C-24-201 is renumbered
404 and amended to read:

405 **~~[63C-24-201]~~ 63A-19-203 . Utah Privacy Commission created.**

406 (1) There is created the Utah Privacy Commission.

407 (2)(a) The commission shall be composed of 12 members.

408 (b) The governor shall appoint:

409 (i) one member who, at the time of appointment provides internet technology services
410 for a county or a municipality;

411 (ii) one member with experience in cybersecurity;

412 (iii) one member representing private industry in technology;

413 (iv) one member representing law enforcement; and

414 (v) one member with experience in data privacy law.

415 (c) The state auditor shall appoint:

416 (i) one member with experience in internet technology services;

417 (ii) one member with experience in cybersecurity;

418 (iii) one member representing private industry in technology;

419 (iv) one member with experience in data privacy law; and

420 (v) one member with experience in civil liberties law or policy and with specific
421 experience in identifying the disparate impacts of the use of a technology or a
422 policy on different populations.

423 (d) The attorney general shall appoint:

424 (i) one member with experience as a prosecutor or appellate attorney and with
425 experience in data privacy or civil liberties law; and

426 (ii) one member representing law enforcement.

427 (3)(a) Except as provided in Subsection (3)(b), a member is appointed for a term of four
428 years.

429 (b) The initial appointments of members described in Subsections (2)(b)(i) through
430 (b)(iii), (2)(c)(iv) through (c)(v), and (2)(d)(ii) shall be for two-year terms.

431 (c) When the term of a current member expires, a member shall be reappointed or a new
432 member shall be appointed in accordance with Subsection (2).

433 (4)(a) When a vacancy occurs in the membership for any reason, a replacement shall be
434 appointed in accordance with Subsection (2) for the unexpired term.

435 (b) A member whose term has expired may continue to serve until a replacement is
436 appointed.

- 437 (5) The commission shall select officers from the commission's members as the
438 commission finds necessary.
- 439 (6)(a) A majority of the members of the commission is a quorum.
440 (b) The action of a majority of a quorum constitutes an action of the commission.
- 441 (7) A member may not receive compensation or benefits for the member's service but may
442 receive per diem and travel expenses incurred as a member of the commission at the
443 rates established by the Division of Finance under:
444 (a) Sections 63A-3-106 and 63A-3-107; and
445 (b) rules made by the Division of Finance in accordance with Sections 63A-3-106 and
446 63A-3-107.
- 447 (8) A member shall refrain from participating in a review of:
448 (a) an entity of which the member is an employee; or
449 (b) a technology in which the member has a financial interest.
- 450 (9) The state auditor shall provide staff and support to the commission.
- 451 (10) The commission shall meet up to 12 times a year to accomplish the duties described in
452 Section ~~[63C-24-202]~~ 63A-19-204.
- 453 Section 9. Section **63A-19-204**, which is renumbered from Section 63C-24-202 is renumbered
454 and amended to read:
455 **~~[63C-24-202]~~ 63A-19-204 . Commission duties.**
- 456 (1) The commission shall:
457 (a) annually develop a data privacy agenda that identifies for the upcoming year:
458 (i) governmental entity privacy practices to be reviewed by the commission;
459 (ii) educational and training materials that the commission intends to develop;
460 (iii) any other items related to data privacy the commission intends to study; and
461 (iv) best practices and guiding principles that the commission plans to develop
462 related to government privacy practices;
- 463 (b) develop guiding standards and best practices with respect to government privacy
464 practices;
- 465 (c) develop educational and training materials that include information about:
466 (i) the privacy implications and civil liberties concerns of the privacy practices of
467 government entities;
- 468 (ii) best practices for government collection and retention policies regarding personal
469 data; and
470 (iii) best practices for government personal data security standards;

- 471 (d) review the privacy implications and civil liberties concerns of government privacy
472 practices; and
- 473 (e) provide the data privacy agenda to the governing board by May 1 of each year.
- 474 (2) The commission may, in addition to the approved items in the data privacy agenda
475 prepared under Subsection (1)(a):
- 476 (a) review specific government privacy practices as referred to the commission by the
477 chief privacy officer described in Section 63A-19-302 or the state privacy [officer]
478 auditor described in Section 67-3-13;
- 479 (b) review a privacy practice not accounted for in the data privacy agenda only upon
480 referral by the chief privacy officer or the state privacy [officer] auditor in accordance
481 with [~~Subsection 63C-24-202(2)(a)~~] this section;
- 482 (c) review and provide recommendations regarding consent mechanisms used by
483 governmental entities to collect personal information;
- 484 (d) develop and provide recommendations to the Legislature on how to balance
485 transparency and public access of public records against an individual's reasonable
486 expectations of privacy and data protection; and
- 487 (e) develop recommendations for legislation regarding the guiding standards and best
488 practices the commission has developed in accordance with Subsection (1)(a).
- 489 (3) At least annually, on or before October 1, the commission shall report to the Judiciary
490 Interim Committee:
- 491 (a) the results of any reviews the commission has conducted;
- 492 (b) the guiding standards and best practices described in Subsection (1)(b); and
- 493 (c) any recommendations for legislation the commission has developed in accordance
494 with Subsection (2)(e).
- 495 (4) At least annually, on or before June 1, the commission shall report to the governing
496 board regarding:
- 497 (a) governmental entity privacy practices the commission plans to review in the next
498 year;
- 499 (b) any educational and training programs the commission intends to develop in relation
500 to government data privacy best practices;
- 501 (c) results of the commission's data privacy practice reviews from the previous year; and
- 502 (d) recommendations from the commission related to data privacy legislation, standards,
503 or best practices.
- 504 (5) The data privacy agenda detailed in Subsection (1)(a) does not add to or expand the

505 authority of the commission.

506 Section 10. Section **63A-19-301** is amended to read:

507 **63A-19-301 . Utah Office of Data Privacy.**

508 (1) There is created within the department the Utah Office of Data Privacy.

509 (2) The office shall coordinate with the governing board and the commission to perform the
510 duties in this section.

511 (3) The office shall:

512 (a) create and maintain a ~~[strategie]~~data privacy ~~[plan]~~ framework designed to:

513 (i) ~~[assist state ageneies]~~ assist governmental entities to identify and implement
514 effective and efficient data privacy practices, tools, and systems that:

515 (A) protect the privacy of personal data;

516 (B) comply with data privacy laws and regulations specific to the governmental
517 entity, program, or data;

518 (C) empower individuals to protect and control their personal data; and

519 (D) enable information use and sharing among governmental entities, as allowed
520 by law; and

521 (ii) account for differences in ~~[state agency]~~ a governmental entity's resources,
522 capabilities, populations served, data types, and maturity ~~[levels]~~ level regarding
523 data privacy practices;

524 (b) review statutory provisions related to governmental data privacy and records
525 management to:

526 (i) identify conflicts and gaps in data privacy law; and

527 (ii) standardize language;~~[-and]~~

528 ~~[(iii) consult impacted agencies and the attorney general regarding findings and~~
529 ~~proposed amendments;]~~

530 (c) work with ~~[state ageneies]~~ governmental entities to study, research, and identify:

531 (i) additional data privacy [requirements] practices that are feasible for ~~[state ageneies]~~
532 governmental entities;

533 (ii) potential remedies and accountability mechanisms for non-compliance of a ~~[state~~
534 ~~agency]~~ governmental entity;

535 (iii) ways to expand ~~[individual]~~ an individual's control [and rights with respect to-]
536 over the individual's personal data [held by state ageneies; and] processed by a
537 governmental entity;

538 (iv) resources needed to develop, implement, and improve data privacy programs; and

- 539 (v) best practices regarding:
- 540 (A) automated decision making;
- 541 (B) the creation and use of synthetic, de-identified, or anonymized data; and
- 542 (C) the use of website tracking technology;
- 543 (d) monitor high-risk data processing activities within ~~[state agencies]~~ governmental
- 544 entities;
- 545 ~~[(e) receive information from state agencies regarding the sale, sharing, and processing~~
- 546 ~~personal data;]~~
- 547 ~~[(f)]~~ (e) coordinate with the Cyber Center to develop an incident response plan for data
- 548 breaches affecting governmental entities;
- 549 ~~[(g) coordinate with the state archivist to incorporate data privacy practices into records~~
- 550 ~~management;]~~
- 551 ~~[(h) coordinate with the state archivist to incorporate data privacy training into the~~
- 552 ~~trainings described in Section 63A-12-110; and]~~
- 553 ~~[(i)]~~ (f) coordinate with the state archivist to:
- 554 (i) incorporate data privacy practices into records management; and
- 555 (ii) include data privacy content in the trainings described in Section 63A-12-110; and
- 556 (g) create a data privacy training program for employees of governmental entities as
- 557 described in Section 63A-19-401.3.
- 558 ~~[(4) The data privacy training program described in Subsection (3)(i) shall be made~~
- 559 ~~available to all governmental entities, and shall be designed to provide instruction~~
- 560 ~~regarding:]~~
- 561 ~~[(a) data privacy best practices, obligations, and responsibilities; and]~~
- 562 ~~[(b) the relationship between privacy, records management, and security.]~~
- 563 ~~[(5)(a) Except as provided in Subsection (5)(b), an employee of a state agency shall~~
- 564 ~~complete the data privacy training program described in Subsection (3)(i):]~~
- 565 ~~[(i) within 30 days of beginning employment; and]~~
- 566 ~~[(ii) at least once in each calendar year.]~~
- 567 ~~[(b) An employee of a state agency that does not have access to personal data as part of~~
- 568 ~~the employee's work duties is not required to complete the data privacy training~~
- 569 ~~program described in Subsection (3)(i).]~~
- 570 ~~[(c) Each state agency is responsible for monitoring completion of data privacy training~~
- 571 ~~by the state agency's employees.]~~
- 572 ~~[(6)]~~ (4) ~~[To the extent that resources permit, the]~~ The office may[-] :

- 573 (a) provide expertise and assistance to governmental entities for ~~[high risk]~~ high-risk data
574 processing activities[-] ;
- 575 (b) create assessment tools and resources that a governmental entity may use to:
576 (i) review, evaluate, and mature the governmental entity's privacy program, practices,
577 and processing activities; and
578 (ii) evaluate the privacy impact, privacy risk, and privacy compliance of the
579 governmental entity's privacy program, practices, and processing activities;
- 580 (c) charge a governmental entity a service fee, established in accordance with Section
581 63J-1-504, for providing services that enable a governmental entity to perform the
582 governmental entity's duties under Section 63A-19-401, if the governmental entity
583 requests the office provide those services;
- 584 (d) bill a state agency, as provided in Section 63J-1-410, for any services the office
585 provides to a state agency;
- 586 (e) provide funding to assist a governmental entity in complying with:
587 (i) this chapter; and
588 (ii) Title 63G, Chapter 2, Part 3, Classification, and Title 63G, Chapter 2, Part 6,
589 Collection of Information and Accuracy of Records; and
- 590 (f) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
591 Rulemaking Act, to administer this part.
- 592 (5)(a) Upon application by a governmental entity, the office may:
593 (i) grant, for a limited period of time, a governmental entity with an:
594 (A) extension of time to comply with certain requirements of Part 4, Duties of
595 Governmental Entities; or
596 (B) exemption from complying with certain requirements of Part 4, Duties of
597 Governmental Entities; or
598 (ii) allow a governmental entity to establish a data privacy training program for the
599 governmental entity's employees to complete, instead of the data privacy training
600 program established by the office under Section 63A-19-401.3, if the
601 governmental entity's data privacy training program contains the same information
602 contained in the office's data privacy training program.
- 603 (b) An application for an exemption submitted under Subsection (5)(a)(i) shall:
604 (i) identify the specific duty from which the governmental entity seeks an extension
605 or exemption and the section that imposes that duty;
606 (ii) include a justification for the requested extension or exemption; and

607 (iii) provide a statement explaining why granting the extension or exemption would
 608 not be contrary to the public interest.

609 (c) If the office grants an exemption under Subsection (5)(a), the office shall report at
 610 the next board meeting:

611 (i) the name of the governmental entity that received an exemption; and

612 (ii) the nature of the exemption.

613 (d) The office shall notify the state privacy auditor of any approved extensions or
 614 exemptions.

615 Section 11. Section **63A-19-401** is amended to read:

616 **63A-19-401 . Duties of governmental entities.**

617 (1)(a) Except as provided in Subsections (1)(b) and (c), a governmental entity shall
 618 comply with the requirements of this part.

619 (b)(i) If a governmental entity or a contractor~~[-described in Subsection (4)(a)]~~ is
 620 subject to a more restrictive or a more specific provision of law than found in this
 621 part, the governmental entity or contractor shall comply with the more restrictive
 622 or more specific provision of law.

623 (ii) For purposes of Subsection (1)(b)(i), Title 63G, Chapter 2, Government Records
 624 Access and Management Act, is a more specific provision of law and shall control
 625 over the provisions of this part.

626 (c) A governmental entity that is exempt under Section 63G-2-702, 63G-2-703, or
 627 63G-2-704 from complying with the requirements in Title 63G, Chapter 2, Part 6,
 628 Collection of Information and Accuracy of Records, is exempt from complying with
 629 the requirements in ~~[Sections 63A-19-402, 63A-19-403, and 63A-19-404]~~ this chapter.

630 (2) A governmental entity shall:

631 ~~[(a) shall implement and maintain a privacy program before May 1, 2025, that includes~~
 632 ~~the governmental entity's policies, practices, and procedures for the process of~~
 633 ~~personal data;]~~

634 ~~[(b) shall provide notice to an individual or the legal guardian of an individual, if the~~
 635 ~~individual's personal data is affected by a data breach, in accordance with Section~~
 636 ~~63A-19-406;]~~

637 ~~[(e)]~~ (a) initiate a data privacy program before July 1, 2025, that includes policies and
 638 procedures for protecting personal data;

639 (b) [shall]obtain and process only the minimum amount of personal data reasonably
 640 necessary to efficiently achieve a specified purpose;

641 ~~[(d)]~~ (c) ~~[shall]~~ meet the requirements of this part for all new processing activities
642 implemented by a governmental entity after May 1, 2024; and
643 ~~[(e)]~~ (d) ~~[shall]~~ for any processing activity implemented before May 1, 2024, as soon as
644 is reasonably practicable, but no later than ~~[January]~~ July 1, 2027:
645 (i) identify any non-compliant processing activity;
646 (ii) document the non-compliant processing activity; and
647 (iii) prepare a strategy for bringing the non-compliant processing activity into
648 compliance with this part[;] .

649 ~~[(i)]~~(i) ~~that is a designated governmental entity, shall annually report to the state~~
650 ~~privacy officer:]~~
651 ~~[(A) the types of personal data the designated governmental entity currently shares~~
652 ~~or sells;]~~
653 ~~[(B) the basis for sharing or selling the personal data; and]~~
654 ~~[(C) the classes of persons and the governmental entities that receive the personal~~
655 ~~data from the designated governmental entity; and]~~
656 ~~[(ii) that is a state agency, shall annually report to the chief privacy officer:]~~
657 ~~[(A) the types of personal data the state agency currently shares or sells;]~~
658 ~~[(B) the basis for sharing or selling the personal data; and]~~
659 ~~[(C) the classes of persons and the governmental entities that receive the personal~~
660 ~~data from the state agency; and]~~

661 ~~[(j)]~~(i) ~~except as provided in Subsection (3), an employee of a governmental entity~~
662 ~~shall complete a data privacy training program:]~~
663 ~~[(A) within 30 days after beginning employment; and]~~
664 ~~[(B) at least once in each calendar year; and]~~

665 ~~[(k) is responsible for monitoring completion of data privacy training by the~~
666 ~~governmental entity's employees.]~~

667 ~~[(f)]~~ (3) A governmental entity may not:
668 (a) [-]establish, maintain, or use undisclosed or covert surveillance of individuals unless
669 permitted by law;
670 ~~[(g)]~~ (b) ~~[may not]~~ sell personal data unless expressly required by law; and
671 ~~[(h)]~~ (c) ~~[may not]~~ share personal data unless permitted by law[;] .

672 ~~[(3) An employee of a governmental entity that does not have access to personal data of~~
673 ~~individuals as part of the employee's work duties is not required to complete a data~~
674 ~~privacy training program described in Subsection (2)(j)(i).]~~

675 ~~[(4)(a) A contractor that enters into or renews an agreement with a governmental entity~~
676 ~~after May 1, 2024, and processes or has access to personal data as a part of the~~
677 ~~contractor's duties under the agreement, is subject to the requirements of this chapter~~
678 ~~with regard to the personal data processed or accessed by the contractor to the same~~
679 ~~extent as required of the governmental entity.]~~

680 ~~[(b) An agreement under Subsection (4)(a) shall require the contractor to comply with~~
681 ~~the requirements of this chapter with regard to the personal data processed or~~
682 ~~accessed by the contractor as a part of the contractor's duties under the agreement to~~
683 ~~the same extent as required of the governmental entity.]~~

684 ~~[(c) The requirements under Subsections (4)(a) and (b) are in addition to and do not~~
685 ~~replace any other requirements or liability that may be imposed for the contractor's~~
686 ~~violation of other laws protecting privacy rights or government records.]~~

687 Section 12. Section **63A-19-401.1** is enacted to read:

688 **63A-19-401.1 . Privacy annotations.**

689 (1)(a) Beginning July 1, 2027, a state agency shall make a complete and accurate
690 privacy annotation for each record series containing personal data that the state
691 agency collects, maintains, or uses.

692 (b) After July 1, 2027, a state agency that has not created a privacy annotation for a
693 record series containing personal data, may not collect, maintain, or use the personal
694 data.

695 (2) If a state agency determines that a record series:

696 (a) does not contain personal data, the privacy annotation shall be limited to a statement
697 indicating that the record series does not include personal data; or

698 (b) contains personal data, the privacy annotation shall include:

699 (i) an inventory of all types of personal data included in the record series;

700 (ii) a description of all purposes for which the state agency collects, keeps, or uses the
701 personal data;

702 (iii) a citation to the state agency's legal authority for collecting, keeping, or using the
703 personal data; and

704 (iv) any other information required by the rules created by the office under Section
705 63A-19-301.

706 Section 13. Section **63A-19-401.2** is enacted to read:

707 **63A-19-401.2 . Training requirements.**

708 (1) The data privacy training program created by the office under Section 63A-4-301 shall

- 709 be:
- 710 (a) designed to provide instruction regarding:
- 711 (i) data privacy best practices, obligations, and responsibilities; and
- 712 (ii) the relationship between privacy, records management, and security; and
- 713 (b) required for all employees of a governmental entity who:
- 714 (i) have access to personal data as part of the employee's work duties; or
- 715 (ii) supervise an employee who has access to personal data.
- 716 (2) The training described in Subsection (1) shall be completed:
- 717 (a) within 30 days after an employee of a governmental entity begins employment; and
- 718 (b) at least once in each calendar year.
- 719 (3) A governmental entity is responsible for:
- 720 (a) ensuring that each employee of the governmental entity completes the data privacy
- 721 training as required by Subsection (2); and
- 722 (b) reporting the governmental entity's compliance with the training requirements as
- 723 described in Section 63A-19-401.3.
- 724 Section 14. Section **63A-19-401.3** is enacted to read:
- 725 **63A-19-401.3 . Privacy program report.**
- 726 (1) On or before September 1 of each year, the chief administrative officer of each
- 727 governmental entity shall prepare a report that includes:
- 728 (a) whether the governmental entity has initiated a privacy program;
- 729 (b) a description of:
- 730 (i) any privacy practices implemented by the governmental entity;
- 731 (ii) strategies for improving the governmental entity's privacy program and practices;
- 732 and
- 733 (iii) the governmental entity's high-risk processing activities;
- 734 (c) a list of the types of personal data the governmental entity currently shares, sells, or
- 735 purchases;
- 736 (d) the legal basis for sharing, selling, or purchasing personal data;
- 737 (e) the category of individuals or entities:
- 738 (i) with whom the governmental entity shares personal data;
- 739 (ii) to whom the governmental entity sells personal data; or
- 740 (iii) from whom the governmental entity purchases personal data; and
- 741 (f) the governmental entity's level of compliance with the data privacy training
- 742 requirements described in Section 63A-19-401.2.

743 (2) The report described in Subsection (1):

744 (a) shall be considered a protected record under Section 63G-2-305; and

745 (b) may be made available at the request of the office.

746 Section 15. Section **63A-19-401.4** is enacted to read:

747 **63A-19-401.4 . Requirements for contractors.**

748 (1) Except as provided in Subsection (4), a contractor that processes or has access to
 749 personal data as a part of the contractor's duties under a contract with a governmental
 750 entity is subject to the requirements of this chapter to the same extent as the
 751 governmental entity for any personal data the contractor processes or has access to under
 752 a contract with the governmental entity.

753 (2) A contract entered into or renewed between a contractor and a governmental entity shall
 754 contain specific language that requires a contractor to comply with the requirements of
 755 this chapter with regard to the personal data processed or accessed by the contractor as a
 756 part of the contractor's duties under a contract to the same extent as required of the
 757 governmental entity.

758 (3) The requirements under this section are in addition to and do not replace any other
 759 requirements or liability that may be imposed for the contractor's violation of other laws
 760 protecting privacy rights or government records.

761 (4) All contractors shall complete:

762 (a) the data privacy training program established by the office under Section

763 63A-19-401.3; or

764 (b) a data privacy training program provided by the contractor that meets or exceeds
 765 industry standards for data privacy training.

766 Section 16. Section **63A-19-402** is amended to read:

767 **63A-19-402 . Personal data collection -- Privacy notice.**

768 (1) A governmental entity shall provide a [~~personal data request~~] privacy notice to an
 769 individual, or the legal guardian of an individual, from whom the governmental entity
 770 requests or collects personal data.

771 [~~(2) The personal data request notice described in Subsection (1) shall include:]~~

772 [~~(a) the reasons the individual is asked to provide the personal data;]~~

773 [~~(b) the intended purposes and uses of the personal data;]~~

774 [~~(c) the consequences for refusing to provide the personal data;]~~

775 [~~(d) the classes of persons and entities that:]~~

776 [~~(i) share the personal data with the governmental entity; or]~~

- 777 (ii) receive the personal data from the governmental entity on a regular or
778 contractual basis; and]
- 779 [(e) the record series in which the personal data is or will be included, if applicable.]
- 780 [(3)] (2) If the personal data collected by a governmental entity:
- 781 (a) would be classified as a public record under Section 63G-2-301, the privacy notice
782 shall be limited to a statement indicating that the individual's personal data may be
783 available to the public as provided by Section 63G-2-201; and
- 784 (b) would not be classified as a public record under Section 63G-2-301, the privacy
785 notice shall describe:
- 786 (i) all intended purposes and uses of the personal data;
- 787 (ii) the consequences for refusing to provide the personal data;
- 788 (iii) the classes of persons and governmental entities:
- 789 (A) with whom the governmental entity shares personal data; or
- 790 (B) to whom the governmental entity sells personal data; and
- 791 (iv) the record series in which the personal data is included.
- 792 (3) The governmental entity shall provide the [~~personal data request~~] privacy notice by:
- 793 (a) posting the [~~personal data request~~] privacy notice in a prominent place where the
794 governmental entity collects the personal data;
- 795 (b) including the [~~personal data request~~] privacy notice as part of any document or form
796 used by the governmental entity to collect the personal data; or
- 797 (c) [~~conspicuously linking to or displaying a QR code linked to an electronic version of~~
798 ~~the personal data request notice as part of any document or form used by the~~
799 ~~governmental entity to collect the personal data]~~ including as part of any document or
800 form used by the governmental entity to collect personal data, a conspicuous link or
801 QR code that links to an electronic version of the privacy notice.
- 802 (4) The [~~personal data request~~] privacy notice required by this section is in addition to, and
803 does not supersede, any other notice requirement otherwise applicable to the
804 governmental entity.
- 805 (5) The governmental entity shall, upon request, provide the [~~personal data request~~] privacy
806 notice to an individual, or the legal guardian of an individual, regarding personal data
807 previously furnished by that individual.
- 808 (6) The governmental entity may only use personal data furnished by an individual for the
809 purposes identified in the [~~personal data request~~] privacy notice provided to that
810 individual.

811 Section 17. Section **63A-19-402.5** is enacted to read:

812 **63A-19-402.5 . Website privacy notice.**

813 (1) A governmental entity's government website shall include notice to a user of:

814 (a) the identity of the governmental entity responsible for the government website;

815 (b) how to contact the governmental entity that is responsible for the government
816 website;

817 (c) the method by which a user may:

818 (i) seek access to the user's personal data or user data;

819 (ii) request to correct or amend the user's personal data or user data; and

820 (iii) file a complaint with the data privacy ombudsperson; and

821 (d) how an at-risk employee may request that the at-risk employee's personal
822 information be classified as a private record under Section 63G-2-302.

823 (2) In addition to the website privacy notice requirement described in Subsection (1)(a), a
824 government website that collects user data shall include in the website privacy notice the
825 following information:

826 (a) any website tracking technology that is used to collect user data on the government
827 website;

828 (b) what user data is collected by the government website;

829 (c) all intended purposes and uses of the user data;

830 (d) the classes of persons and governmental entities:

831 (i) with whom the governmental entity shares user data; or

832 (ii) to whom the governmental entity sells user data; and

833 (e) the record series in which the user data is included.

834 (3) A notice described in Subsection (1) or (2) shall be provided by prominently posting on
835 the homepage of the government website:

836 (a) the notice; or

837 (b) a link to a separate webpage containing the notice.

838 (4) A governmental entity may not collect user data on a government website unless the
839 governmental entity has complied with the requirements in this section.

840 Section 18. Section **63A-19-405** is amended to read:

841 **63A-19-405 . Data breach notification to the Cyber Center and the Office of the**
842 **Attorney General.**

843 (1)(a) A governmental entity that identifies a data breach affecting 500 or more

844 individuals shall notify the Cyber Center and the attorney general of the data breach.

- 845 (b) In addition to the notification required by Subsection (1)(a), a governmental entity
846 that identifies the unauthorized access, acquisition, disclosure, loss of access, or
847 destruction of data that compromises the security, confidentiality, availability, or
848 integrity of the computer systems used or information maintained by the
849 governmental entity shall notify the Cyber Center.
- 850 (2) The notification under Subsection (1) shall:
- 851 (a) be made without unreasonable delay, but no later than five days from the discovery
852 of the data breach; and
- 853 (b) include the following information:
- 854 (i) the date and time the data breach occurred;
- 855 (ii) the date the data breach was discovered;
- 856 (iii) a short description of the data breach that occurred;
- 857 (iv) the means by which access was gained to the system, computer, or network;
- 858 (v) the ~~[individual or entity]~~ person who perpetrated the data breach;
- 859 (vi) steps the governmental entity is or has taken to mitigate the impact of the data
860 breach; and
- 861 (vii) any other details requested by the Cyber Center.
- 862 (3) For a data breach under Subsection (1)(a), the governmental entity shall provide the
863 following information to the Cyber Center and the attorney general in addition to the
864 information required under Subsection (2)(b):
- 865 (a) the total number of ~~[people]~~ individuals affected by the data breach, including the
866 total number of Utah residents affected; and
- 867 (b) the type of personal data involved in the data breach.
- 868 (4) If the information required by ~~[Subsection (2)(b)]~~ Subsections (2)(b) and (3) is not
869 available within five days of discovering the breach, the governmental entity shall
870 provide as much of the information required under ~~[Subsection (2)(b)]~~ Subsections (2)(b)
871 and (3) as is available and supplement the notification with additional information as
872 soon as the information becomes available.
- 873 (5)(a) A governmental entity that experiences a data breach affecting fewer than 500
874 individuals shall create an internal incident report containing the information in
875 Subsection (2)(b) as soon as practicable and shall provide additional information as
876 the information becomes available.
- 877 (b) A governmental entity shall provide to the Cyber Center:
- 878 (i) an internal incident report described in Subsection (5)(a) upon request of the

- 879 Cyber Center; and
- 880 (ii) an annual report logging all of the governmental entity's data breach incidents
- 881 affecting fewer than 500 individuals.
- 882 Section 19. Section **63A-19-406** is amended to read:
- 883 **63A-19-406 . Data breach notice to individuals affected by data breach.**
- 884 (1)(a) [A] Except as provided in Subsection (1)(b), a governmental entity shall provide a
- 885 data breach notice to an individual or legal guardian of an individual affected by the
- 886 data breach:
- 887 [(a)] (i) after determining the scope of the data breach;
- 888 [(b)] (ii) after restoring the reasonable integrity of the affected system, if necessary;
- 889 and
- 890 [(c)] (iii) without unreasonable delay except as provided in Subsection [(1)(b)-] (2).
- 891 (b) A governmental entity is not required to provide a data breach notice to an affected
- 892 individual as described in Subsection (1)(a) if the:
- 893 (i) personal data involved in the data breach would be classified as a public record
- 894 under Section 63G-2-301; and
- 895 (ii) the governmental entity prominently posts notice of the data breach on the
- 896 homepage of the governmental entity's government website.
- 897 (2) A governmental entity shall delay providing notification under Subsection (1) at the
- 898 request of a law enforcement agency that determines that notification may impede a
- 899 criminal investigation, until such time as the law enforcement agency informs the
- 900 governmental entity that notification will no longer impede the criminal investigation.
- 901 (3) The data breach notice to an affected individual shall include:
- 902 (a) a description of the data breach;
- 903 (b) the individual's personal data that was accessed or may have been accessed;
- 904 (c) steps the governmental entity is taking or has taken to mitigate the impact of the data
- 905 breach;
- 906 (d) recommendations to the individual on how to protect themselves from identity theft
- 907 and other financial losses; and
- 908 (e) any other language required by the Cyber Center.
- 909 (4) Unless the governmental entity reasonably believes that providing notification would
- 910 pose a threat to the safety of an individual, or unless an individual has designated to the
- 911 governmental entity a preferred method of communication, a governmental entity shall
- 912 provide notice by:

- 913 (a)(i) email, if reasonably available and allowed by law; or
 914 (ii) mail; and
 915 (b) one of the following methods, if the individual's contact information is reasonably
 916 available and the method is allowed by law:
 917 (i) text message with a summary of the data breach notice and instructions for
 918 accessing the full notice; or
 919 (ii) telephone message with a summary of the data breach notice and instructions for
 920 accessing the full data breach notice.

921 (5) A governmental entity shall also provide a data breach notice in a manner that is
 922 reasonably calculated to have the best chance of being received by the affected
 923 individual or the legal guardian of an individual, such as through a press release, posting
 924 on appropriate social media accounts, or publishing notice in a newspaper of general
 925 circulation when:

- 926 (a) a data breach affects more than 500 individuals; and
 927 (b) a governmental entity is unable to obtain an individual's contact information to
 928 provide notice for any method listed in Subsection (4).

929 Section 20. Section **63A-19-501** is amended to read:

930 **63A-19-501 . Data privacy ombudsperson.**

- 931 (1) The governor shall appoint a data privacy ombudsperson with the advice of the
 932 governing board.
 933 (2) The ombudsperson shall:
 934 (a) be familiar with the provisions of:
 935 (i) this chapter;
 936 (ii) Chapter 12, Division of Archives and Records Service and Management of
 937 Government Records; and
 938 (iii) Title 63G, Chapter 2, Government Records Access and Management Act; and
 939 (b) serve as a resource for:
 940 (i) [-]an individual who is making or responding to a complaint about a governmental
 941 entity's data privacy practice[-] ; and
 942 (ii) a governmental entity which is the subject of a data privacy complaint.
 943 (3) The ombudsperson may, upon request by a governmental entity or individual, mediate
 944 data privacy disputes between individuals and governmental entities.
 945 (4) After consultation with the chief privacy officer~~[-or the state privacy officer]~~, the
 946 ombudsperson may raise issues and questions before the governing board regarding

947 serious and repeated violations of data privacy from:

948 (a) a specific governmental entity; or

949 (b) widespread governmental entity data privacy practices.

950 (5) When a data privacy complaint has been resolved, the ombudsperson shall post on the
951 office's website a summary of the complaint and the resolution of the matter.

952 Section 21. Section **63A-19-601** is amended to read:

953 **63A-19-601 . Enforcement.**

954 (1) Upon instruction by the board, the state auditor shall:

955 (a) investigate alleged violations of this chapter by a governmental entity;

956 (b) provide notice to the relevant governmental entity of an alleged violation of this
957 chapter; and

958 (c) for a violation that the state auditor substantiates, provide an opportunity for the
959 governmental entity to cure the violation within 30 days.

960 (2) If a governmental entity fails to cure a violation as provided in Subsection (1)(c), the
961 state auditor shall report the governmental entity's failure:

962 (a) for a [~~designated~~]governmental entity that is not a state agency, to the attorney
963 general for enforcement under Subsection (3); and

964 (b) for a state agency, to the Legislative Management Committee.

965 (3) After referral by the state auditor under Subsection (2)(a), the attorney general may file
966 an action in district court to:

967 (a) enjoin a [~~designated~~]governmental entity that is not a state agency from violating
968 this chapter; or

969 (b) require a [~~designated~~]governmental entity that is not a state agency to comply with
970 this chapter.

971 Section 22. Section **63A-19-602** is enacted to read:

972 **63A-19-602 . Disciplinary action.**

973 A governmental entity may take disciplinary action, which may include suspension or
974 discharge, against any employee of the governmental entity who intentionally violates any
975 provision of this chapter.

976 Section 23. Section **63G-2-103** is amended to read:

977 **63G-2-103 . Definitions.**

978 As used in this chapter:

979 (1) "Audit" means:

980 (a) a systematic examination of financial, management, program, and related records for

981 the purpose of determining the fair presentation of financial statements, adequacy of
982 internal controls, or compliance with laws and regulations; or

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

986 (2) "Chief administrative officer" means the same as that term is defined in Section
987 63A-12-100.5.

988 [~~(2)~~] (3) "Chronological logs" mean the regular and customary summary records of law
989 enforcement agencies and other public safety agencies that show:

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

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

993 [~~(3)~~] (4) "Classification," "classify," and their derivative forms mean determining whether a
994 record series, record, or information within a record is public, private, controlled,
995 protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

996 [(4)] (5)(a) "Computer program" means:

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

1000 (ii) any associated documentation and source material that explain how to operate the
1001 computer program.

1002 (b) "Computer program" does not mean:

1003 (i) the original data, including numbers, text, voice, graphics, and images;

1004 (ii) analysis, compilation, and other manipulated forms of the original data produced
1005 by use of the program; or

1006 (iii) the mathematical or statistical formulas, excluding the underlying mathematical
1007 algorithms contained in the program, that would be used if the manipulated forms
1008 of the original data were to be produced manually.

1009 [(5)] (6)(a) "Contractor" means:

1010 (i) any person who contracts with a governmental entity to provide goods or services
1011 directly to a governmental entity; or

1012 (ii) any private, nonprofit organization that receives funds from a governmental entity.

1013 (b) "Contractor" does not mean a private provider.

1014 [(6)] (7) "Controlled record" means a record containing data on individuals that is controlled

1015 as provided by Section 63G-2-304.

1016 [~~(7)~~] (8) "Designation," "designate," and their derivative forms mean indicating, based on a
1017 governmental entity's familiarity with a record series or based on a governmental entity's
1018 review of a reasonable sample of a record series, the primary classification that a
1019 majority of records in a record series would be given if classified and the classification
1020 that other records typically present in the record series would be given if classified.

1021 [~~(8)~~] (9) "Elected official" means each person elected to a state office, county office,
1022 municipal office, school board or school district office, special district office, or special
1023 service district office, but does not include judges.

1024 [~~(9)~~] (10) "Explosive" means a chemical compound, device, or mixture:

1025 (a) commonly used or intended for the purpose of producing an explosion; and

1026 (b) that contains oxidizing or combustive units or other ingredients in proportions,
1027 quantities, or packing so that:

1028 (i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the
1029 compound or mixture may cause a sudden generation of highly heated gases; and

1030 (ii) the resultant gaseous pressures are capable of:

1031 (A) producing destructive effects on contiguous objects; or

1032 (B) causing death or serious bodily injury.

1033 [~~(10)~~] (11) "Government audit agency" means any governmental entity that conducts an
1034 audit.

1035 [~~(11)~~] (12)(a) "Governmental entity" means:

1036 (i) executive department agencies of the state, the offices of the governor, lieutenant
1037 governor, state auditor, attorney general, and state treasurer, the Board of Pardons
1038 and Parole, the Board of Examiners, the National Guard, the Career Service
1039 Review Office, the State Board of Education, the Utah Board of Higher
1040 Education, and the State Archives;

1041 (ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal
1042 Analyst, Office of Legislative Research and General Counsel, the Legislature, and
1043 legislative committees, except any political party, group, caucus, or rules or sifting
1044 committee of the Legislature;

1045 (iii) courts, the Judicial Council, the Administrative Office of the Courts, and similar
1046 administrative units in the judicial branch;

1047 (iv) any state-funded institution of higher education or public education; or

1048 (v) any political subdivision of the state, but, if a political subdivision has adopted an

1049 ordinance or a policy relating to information practices pursuant to Section
1050 63G-2-701, this chapter shall apply to the political subdivision to the extent
1051 specified in Section 63G-2-701 or as specified in any other section of this chapter
1052 that specifically refers to political subdivisions.

1053 (b) "Governmental entity" also means:

1054 (i) every office, agency, board, bureau, committee, department, advisory board, or
1055 commission of an entity listed in Subsection [~~(11)~~(a)] (12)(a) that is funded or
1056 established by the government to carry out the public's business;

1057 (ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative
1058 undertaking, except for the Water District Water Development Council created
1059 pursuant to Section 11-13-228;

1060 (iii) as defined in Section 11-13a-102, a governmental nonprofit corporation;

1061 (iv) an association as defined in Section 53G-7-1101;

1062 (v) the Utah Independent Redistricting Commission; and

1063 (vi) a law enforcement agency, as defined in Section 53-1-102, that employs one or
1064 more law enforcement officers, as defined in Section 53-13-103.

1065 (c) "Governmental entity" does not include the Utah Educational Savings Plan created in
1066 Section 53B-8a-103.

1067 [~~(12)~~] (13) "Gross compensation" means every form of remuneration payable for a given
1068 period to an individual for services provided including salaries, commissions, vacation
1069 pay, severance pay, bonuses, and any board, rent, housing, lodging, payments in kind,
1070 and any similar benefit received from the individual's employer.

1071 [~~(13)~~] (14) "Individual" means a human being.

1072 [~~(14)~~] (15)(a) "Initial contact report" means an initial written or recorded report, however
1073 titled, prepared by peace officers engaged in public patrol or response duties
1074 describing official actions initially taken in response to either a public complaint
1075 about or the discovery of an apparent violation of law, which report may describe:

1076 (i) the date, time, location, and nature of the complaint, the incident, or offense;

1077 (ii) names of victims;

1078 (iii) the nature or general scope of the agency's initial actions taken in response to the
1079 incident;

1080 (iv) the general nature of any injuries or estimate of damages sustained in the incident;

1081 (v) the name, address, and other identifying information about any person arrested or
1082 charged in connection with the incident; or

- 1083 (vi) the identity of the public safety personnel, except undercover personnel, or
1084 prosecuting attorney involved in responding to the initial incident.
- 1085 (b) Initial contact reports do not include follow-up or investigative reports prepared after
1086 the initial contact report. However, if the information specified in Subsection [
1087 ~~(14)(a)~~] (15)(a) appears in follow-up or investigative reports, it may only be treated
1088 confidentially if it is private, controlled, protected, or exempt from disclosure under
1089 Subsection 63G-2-201(3)(b).
- 1090 (c) Initial contact reports do not include accident reports, as that term is described in
1091 Title 41, Chapter 6a, Part 4, Accident Responsibilities.
- 1092 ~~[(15)]~~ (16) "Legislative body" means the Legislature.
- 1093 ~~[(16)]~~ (17) "Notice of compliance" means a statement confirming that a governmental entity
1094 has complied with an order of the State Records Committee.
- 1095 ~~[(17)]~~ (18) "Person" means:
- 1096 (a) an individual;
- 1097 (b) a nonprofit or profit corporation;
- 1098 (c) a partnership;
- 1099 (d) a sole proprietorship;
- 1100 (e) other type of business organization; or
- 1101 (f) any combination acting in concert with one another.
- 1102 ~~[(18) "Personal identifying information" means the same as that term is defined in Section~~
1103 ~~63A-12-100.5.]~~
- 1104 ~~[(19) "Privacy annotation" means the same as that term is defined in Section 63A-12-100.5.]~~
- 1105 ~~[(20)]~~ (19) "Private provider" means any person who contracts with a governmental entity to
1106 provide services directly to the public.
- 1107 ~~[(21)]~~ (20) "Private record" means a record containing data on individuals that is private as
1108 provided by Section 63G-2-302.
- 1109 ~~[(22)]~~ (21) "Protected record" means a record that is classified protected as provided by
1110 Section 63G-2-305.
- 1111 ~~[(23)]~~ (22) "Public record" means a record that is not private, controlled, or protected and
1112 that is not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).
- 1113 ~~[(24)]~~ (23) "Reasonable search" means a search that is:
- 1114 (a) reasonable in scope and intensity; and
- 1115 (b) not unreasonably burdensome for the government entity.
- 1116 ~~[(25)]~~ (24)(a) "Record" means a book, letter, document, paper, map, plan, photograph,

- 1117 film, card, tape, recording, electronic data, or other documentary material regardless
1118 of physical form or characteristics:
- 1119 (i) that is prepared, owned, received, or retained by a governmental entity or political
1120 subdivision; and
 - 1121 (ii) where all of the information in the original is reproducible by photocopy or other
1122 mechanical or electronic means.
- 1123 (b) "Record" does not include:
- 1124 (i) a personal note or personal communication prepared or received by an employee
1125 or officer of a governmental entity:
 - 1126 (A) in a capacity other than the employee's or officer's governmental capacity; or
 - 1127 (B) that is unrelated to the conduct of the public's business;
 - 1128 (ii) a temporary draft or similar material prepared for the originator's personal use or
1129 prepared by the originator for the personal use of an individual for whom the
1130 originator is working;
 - 1131 (iii) material that is legally owned by an individual in the individual's private capacity;
 - 1132 (iv) material to which access is limited by the laws of copyright or patent unless the
1133 copyright or patent is owned by a governmental entity or political subdivision;
 - 1134 (v) proprietary software;
 - 1135 (vi) junk mail or a commercial publication received by a governmental entity or an
1136 official or employee of a governmental entity;
 - 1137 (vii) a book that is cataloged, indexed, or inventoried and contained in the collections
1138 of a library open to the public;
 - 1139 (viii) material that is cataloged, indexed, or inventoried and contained in the
1140 collections of a library open to the public, regardless of physical form or
1141 characteristics of the material;
 - 1142 (ix) a daily calendar ;
 - 1143 (x) a note prepared by the originator for the originator's own use or for the sole use of
1144 an individual for whom the originator is working;
 - 1145 (xi) a computer program that is developed or purchased by or for any governmental
1146 entity for its own use;
 - 1147 (xii) a note or internal memorandum prepared as part of the deliberative process by:
 - 1148 (A) a member of the judiciary;
 - 1149 (B) an administrative law judge;
 - 1150 (C) a member of the Board of Pardons and Parole; or

- 1151 (D) a member of any other body, other than an association or appeals panel as
1152 defined in Section 53G-7-1101, charged by law with performing a
1153 quasi-judicial function;
- 1154 (xiii) a telephone number or similar code used to access a mobile communication
1155 device that is used by an employee or officer of a governmental entity, provided
1156 that the employee or officer of the governmental entity has designated at least one
1157 business telephone number that is a public record as provided in Section
1158 63G-2-301;
- 1159 (xiv) information provided by the Public Employees' Benefit and Insurance Program,
1160 created in Section 49-20-103, to a county to enable the county to calculate the
1161 amount to be paid to a health care provider under Subsection 17-50-319(2)(e)(ii);
- 1162 (xv) information that an owner of unimproved property provides to a local entity as
1163 provided in Section 11-42-205;
- 1164 (xvi) a video or audio recording of an interview, or a transcript of the video or audio
1165 recording, that is conducted at a Children's Justice Center established under
1166 Section 67-5b-102;
- 1167 (xvii) child sexual abuse material, as defined by Section 76-5b-103;
- 1168 (xviii) before final disposition of an ethics complaint occurs, a video or audio
1169 recording of the closed portion of a meeting or hearing of:
- 1170 (A) a Senate or House Ethics Committee;
- 1171 (B) the Independent Legislative Ethics Commission;
- 1172 (C) the Independent Executive Branch Ethics Commission, created in Section
1173 63A-14-202; or
- 1174 (D) the Political Subdivisions Ethics Review Commission established in Section
1175 63A-15-201;
- 1176 (xix) confidential communication described in Section 58-60-102, 58-61-102, or
1177 58-61-702;
- 1178 (xx) any item described in Subsection [~~(25)(a)~~] (24)(a) that is:
- 1179 (A) described in Subsection 63G-2-305(17), (18), or (23)(b); and
- 1180 (B) shared between any of the following entities:
- 1181 (I) the Division of Risk Management;
- 1182 (II) the Office of the Attorney General;
- 1183 (III) the governor's office; or
- 1184 (IV) the Legislature; or

1185 (xxi) the email address that a candidate for elective office provides to a filing officer
1186 under Subsection 20A-9-201(5)(c)(ii) or 20A-9-203(4)(c)(iv).

1187 [~~(26)~~] (25) "Record series" means a group of records that may be treated as a unit for
1188 purposes of designation, description, management, or disposition.

1189 [~~(27)~~] (26) "Records officer" means the individual appointed by the chief administrative
1190 officer of each governmental entity, or the political subdivision to work with state
1191 archives in the care, maintenance, scheduling, designation, classification, disposal, and
1192 preservation of records.

1193 [~~(28)~~] (27) "Schedule," "scheduling," and their derivative forms mean the process of
1194 specifying the length of time each record series should be retained by a governmental
1195 entity for administrative, legal, fiscal, or historical purposes and when each record series
1196 should be transferred to the state archives or destroyed.

1197 [~~(29)~~] (28) "Sponsored research" means research, training, and other sponsored activities as
1198 defined by the federal Executive Office of the President, Office of Management and
1199 Budget:

1200 (a) conducted:

1201 (i) by an institution within the state system of higher education defined in Section
1202 53B-1-102; and

1203 (ii) through an office responsible for sponsored projects or programs; and

1204 (b) funded or otherwise supported by an external:

1205 (i) person that is not created or controlled by the institution within the state system of
1206 higher education; or

1207 (ii) federal, state, or local governmental entity.

1208 [~~(30)~~] (29) "State archives" means the Division of Archives and Records Service created in
1209 Section 63A-12-101.

1210 [~~(31)~~] (30) "State archivist" means the director of the state archives.

1211 [~~(32)~~] (31) "State Records Committee" means the State Records Committee created in
1212 Section 63G-2-501.

1213 [~~(33)~~] (32) "Summary data" means statistical records and compilations that contain data
1214 derived from private, controlled, or protected information but that do not disclose
1215 private, controlled, or protected information.

1216 Section 24. Section **63G-2-307** is amended to read:

1217 **63G-2-307 . Duty to evaluate records and make designations, classifications, and**
1218 **annotations.**

- 1219 (1) A governmental entity shall, for each record series that the governmental entity keeps,
 1220 uses, or creates:
- 1221 (a) evaluate all record series;
- 1222 (b) designate each record series as provided by this chapter and Title 63A, Chapter 12,
 1223 Division of Archives and Records Service and Management of Government Records;
 1224 and
- 1225 (c) report to the state archives~~[:]~~ the designation described in Subsection (1)(b).
 1226 ~~[(i) the designation described in Subsection (1)(b); and]~~
 1227 ~~[(ii) if the governmental entity is an executive branch agency, as defined in Section~~
 1228 ~~63A-12-100.5, the privacy annotation.]~~
- 1229 (2) A governmental entity may classify a particular record, record series, or information
 1230 within a record at any time, but is not required to classify a particular record, record
 1231 series, or information until access to the record is requested.
- 1232 (3) A governmental entity may redesignate a record series or reclassify a record or record
 1233 series, or information within a record at any time.

1234 Section 25. Section **63G-2-601** is amended to read:

1235 **63G-2-601 . Rights of individuals on whom data is maintained -- Classification**
 1236 **statement filed with state archivist -- Notice to provider of information.**

- 1237 (1)(a) Each governmental entity shall file with the state archivist a statement explaining,
 1238 for each record series collected, maintained, or used by the governmental entity, the
 1239 purposes for which each private or controlled record in the record series is collected,
 1240 maintained, or used by that governmental entity.
- 1241 ~~[(b) Each executive branch agency, as defined in Section 63A-12-100.5, shall file with~~
 1242 ~~the state archivist a statement explaining, for each record series collected, maintained,~~
 1243 ~~or used by the executive branch agency, the purposes for which the personal~~
 1244 ~~identifying information in the record series is collected, maintained, or used by the~~
 1245 ~~executive branch agency.]~~
- 1246 ~~[(e)]~~ (b) The statement filed under Subsection (1)(a)~~[-or-(b)]:~~
- 1247 (i) shall~~[-, for each purpose described in Subsection (1)(a) or (b),]~~ identify the
 1248 authority under which the governmental entity ~~[or executive branch agency]~~
 1249 collects the records or information included in the statement described in
 1250 Subsection (1)(a)~~[-or-(b)]; and~~
- 1251 (ii) is a public record.
- 1252 (2)(a) A governmental entity shall provide the notice described in this Subsection (2) to

- 1253 a person that is asked to furnish information that could be classified as a private or
 1254 controlled record.
- 1255 ~~[(b) An executive branch agency, as defined in Section 63A-12-100.5, shall provide the~~
 1256 ~~notice described in this Subsection (2) to a person that is asked to furnish personal~~
 1257 ~~identifying information.]~~
- 1258 ~~[(e)] (b)~~ The notice required under Subsection (2)(a)~~[-or (b)]~~ shall:
- 1259 (i) identify the record series that includes the information described in Subsection
 1260 (2)(a)~~[-or (b)]~~;
- 1261 (ii) state the reasons the person is asked to furnish the information;
- 1262 (iii) state the intended uses of the information;
- 1263 (iv) state the consequences for refusing to provide the information; and
- 1264 (v) disclose the classes of persons and the governmental entities that currently:
- 1265 (A) share the information with the governmental entity; or
- 1266 (B) receive the information from the governmental entity on a regular or
 1267 contractual basis.
- 1268 ~~[(d)] (c)~~ The governmental entity shall:
- 1269 (i) post the notice required under this Subsection (2) in a prominent place at all
 1270 locations where the governmental entity collects the information; or
- 1271 (ii) include the notice required under this Subsection (2) as part of the documents or
 1272 forms that are used by the governmental entity to collect the information.
- 1273 (3) Upon request, each governmental entity shall, in relation to the information described in
 1274 Subsection (2)(a)~~[-or (b)]~~, as applicable, explain to a person:
- 1275 (a) the reasons the person is asked to furnish information;
- 1276 (b) the intended uses of the information;
- 1277 (c) the consequences for refusing to provide the information; and
- 1278 (d) the reasons and circumstances under which the information may be shared with, or
 1279 provided to, other persons or governmental entities.
- 1280 (4) A governmental entity may use the information that the governmental entity is required
 1281 to disclose under Subsection (2)(a)~~[-or (b)]~~ only for those purposes:
- 1282 (a) given in the statement filed with the state archivist under Subsection (1); or
- 1283 (b) for which another governmental entity may use the record under Section 63G-2-206.
- 1284 Section 26. Section **67-3-1** is amended to read:
- 1285 **67-3-1 . Functions and duties.**
- 1286 (1)(a) The state auditor is the auditor of public accounts and is independent of any

- 1287 executive or administrative officers of the state.
- 1288 (b) The state auditor is not limited in the selection of personnel or in the determination
1289 of the reasonable and necessary expenses of the state auditor's office.
- 1290 (2) The state auditor shall examine and certify annually in respect to each fiscal year,
1291 financial statements showing:
- 1292 (a) the condition of the state's finances;
- 1293 (b) the revenues received or accrued;
- 1294 (c) expenditures paid or accrued;
- 1295 (d) the amount of unexpended or unencumbered balances of the appropriations to the
1296 agencies, departments, divisions, commissions, and institutions; and
- 1297 (e) the cash balances of the funds in the custody of the state treasurer.
- 1298 (3)(a) The state auditor shall:
- 1299 (i) audit each permanent fund, each special fund, the General Fund, and the accounts
1300 of any department of state government or any independent agency or public
1301 corporation as the law requires, as the auditor determines is necessary, or upon
1302 request of the governor or the Legislature;
- 1303 (ii) perform the audits in accordance with generally accepted auditing standards and
1304 other auditing procedures as promulgated by recognized authoritative bodies; and
- 1305 (iii) as the auditor determines is necessary, conduct the audits to determine:
- 1306 (A) honesty and integrity in fiscal affairs;
- 1307 (B) accuracy and reliability of financial statements;
- 1308 (C) effectiveness and adequacy of financial controls; and
- 1309 (D) compliance with the law.
- 1310 (b) If any state entity receives federal funding, the state auditor shall ensure that the
1311 audit is performed in accordance with federal audit requirements.
- 1312 (c)(i) The costs of the federal compliance portion of the audit may be paid from an
1313 appropriation to the state auditor from the General Fund.
- 1314 (ii) If an appropriation is not provided, or if the federal government does not
1315 specifically provide for payment of audit costs, the costs of the federal compliance
1316 portions of the audit shall be allocated on the basis of the percentage that each
1317 state entity's federal funding bears to the total federal funds received by the state.
- 1318 (iii) The allocation shall be adjusted to reflect any reduced audit time required to
1319 audit funds passed through the state to local governments and to reflect any
1320 reduction in audit time obtained through the use of internal auditors working

- 1321 under the direction of the state auditor.
- 1322 (4)(a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to
1323 financial audits, and as the auditor determines is necessary, conduct performance and
1324 special purpose audits, examinations, and reviews of any entity that receives public
1325 funds, including a determination of any or all of the following:
- 1326 (i) the honesty and integrity of all the entity's fiscal affairs;
 - 1327 (ii) whether the entity's administrators have faithfully complied with legislative intent;
 - 1328 (iii) whether the entity's operations have been conducted in an efficient, effective, and
1329 cost-efficient manner;
 - 1330 (iv) whether the entity's programs have been effective in accomplishing the intended
1331 objectives; and
 - 1332 (v) whether the entity's management, control, and information systems are adequate,
1333 effective, and secure.
- 1334 (b) The auditor may not conduct performance and special purpose audits, examinations,
1335 and reviews of any entity that receives public funds if the entity:
- 1336 (i) has an elected auditor; and
 - 1337 (ii) has, within the entity's last budget year, had the entity's financial statements or
1338 performance formally reviewed by another outside auditor.
- 1339 (5) The state auditor:
- 1340 (a) shall administer any oath or affirmation necessary to the performance of the duties of
1341 the auditor's office; and
 - 1342 (b) may:
 - 1343 (i) subpoena witnesses and documents, whether electronic or otherwise; and
 - 1344 (ii) examine into any matter that the auditor considers necessary.
- 1345 (6) The state auditor may require all persons who have had the disposition or management
1346 of any property of this state or its political subdivisions to submit statements regarding
1347 the property at the time and in the form that the auditor requires.
- 1348 (7) The state auditor shall:
- 1349 (a) except where otherwise provided by law, institute suits in Salt Lake County in
1350 relation to the assessment, collection, and payment of revenues against:
 - 1351 (i) persons who by any means have become entrusted with public money or property
1352 and have failed to pay over or deliver the money or property; and
 - 1353 (ii) all debtors of the state;
 - 1354 (b) collect and pay into the state treasury all fees received by the state auditor;

- 1355 (c) perform the duties of a member of all boards of which the state auditor is a member
1356 by the constitution or laws of the state, and any other duties that are prescribed by the
1357 constitution and by law;
- 1358 (d) stop the payment of the salary of any state official or state employee who:
1359 (i) refuses to settle accounts or provide required statements about the custody and
1360 disposition of public funds or other state property;
1361 (ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling
1362 board or department head with respect to the manner of keeping prescribed
1363 accounts or funds; or
1364 (iii) fails to correct any delinquencies, improper procedures, and errors brought to the
1365 official's or employee's attention;
- 1366 (e) establish accounting systems, methods, and forms for public accounts in all taxing or
1367 fee-assessing units of the state in the interest of uniformity, efficiency, and economy;
- 1368 (f) superintend the contractual auditing of all state accounts;
- 1369 (g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of
1370 property taxes from a state or local taxing or fee-assessing unit, if necessary, to
1371 ensure that officials and employees in those taxing units comply with state laws and
1372 procedures in the budgeting, expenditures, and financial reporting of public funds;
- 1373 (h) subject to Subsection (9), withhold the disbursement of tax money from any county,
1374 if necessary, to ensure that officials and employees in the county comply with
1375 Section 59-2-303.1; and
- 1376 (i) withhold state allocated funds or the disbursement of property taxes from a local
1377 government entity or a limited purpose entity, as those terms are defined in Section
1378 67-1a-15 if the state auditor finds the withholding necessary to ensure that the entity
1379 registers and maintains the entity's registration with the lieutenant governor, in
1380 accordance with Section 67-1a-15.
- 1381 (8)(a) Except as otherwise provided by law, the state auditor may not withhold funds
1382 under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received
1383 formal written notice of noncompliance from the auditor and has been given 60 days
1384 to make the specified corrections.
- 1385 (b) If, after receiving notice under Subsection (8)(a), a state or independent local
1386 fee-assessing unit that exclusively assesses fees has not made corrections to comply
1387 with state laws and procedures in the budgeting, expenditures, and financial reporting
1388 of public funds, the state auditor:

- 1389 (i) shall provide a recommended timeline for corrective actions;
- 1390 (ii) may prohibit the state or local fee-assessing unit from accessing money held by
- 1391 the state; and
- 1392 (iii) may prohibit a state or local fee-assessing unit from accessing money held in an
- 1393 account of a financial institution by filing an action in a court with jurisdiction
- 1394 under Title 78A, Judiciary and Judicial Administration, requesting an order of the
- 1395 court to prohibit a financial institution from providing the fee-assessing unit
- 1396 access to an account.
- 1397 (c) The state auditor shall remove a limitation on accessing funds under Subsection
- 1398 (8)(b) upon compliance with state laws and procedures in the budgeting,
- 1399 expenditures, and financial reporting of public funds.
- 1400 (d) If a local taxing or fee-assessing unit has not adopted a budget in compliance with
- 1401 state law, the state auditor:
- 1402 (i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to
- 1403 comply;
- 1404 (ii) may prohibit the taxing or fee-assessing unit from accessing money held by the
- 1405 state; and
- 1406 (iii) may prohibit a taxing or fee-assessing unit from accessing money held in an
- 1407 account of a financial institution by:
- 1408 (A) contacting the taxing or fee-assessing unit's financial institution and
- 1409 requesting that the institution prohibit access to the account; or
- 1410 (B) filing an action in a court with jurisdiction under Title 78A, Judiciary and
- 1411 Judicial Administration, requesting an order of the court to prohibit a financial
- 1412 institution from providing the taxing or fee-assessing unit access to an account.
- 1413 (e) If the local taxing or fee-assessing unit adopts a budget in compliance with state law,
- 1414 the state auditor shall eliminate a limitation on accessing funds described in
- 1415 Subsection (8)(d).
- 1416 (9) The state auditor may not withhold funds under Subsection (7)(h) until a county has
- 1417 received formal written notice of noncompliance from the auditor and has been given 60
- 1418 days to make the specified corrections.
- 1419 (10)(a) The state auditor may not withhold funds under Subsection (7)(i) until the state
- 1420 auditor receives a notice of non-registration, as that term is defined in Section
- 1421 67-1a-15.
- 1422 (b) If the state auditor receives a notice of non-registration, the state auditor may

- 1423 prohibit the local government entity or limited purpose entity, as those terms are
1424 defined in Section 67-1a-15, from accessing:
- 1425 (i) money held by the state; and
1426 (ii) money held in an account of a financial institution by:
- 1427 (A) contacting the entity's financial institution and requesting that the institution
1428 prohibit access to the account; or
1429 (B) filing an action in a court with jurisdiction under Title 78A, Judiciary and
1430 Judicial Administration, requesting an order of the court to prohibit a financial
1431 institution from providing the entity access to an account.
- 1432 (c) The state auditor shall remove the prohibition on accessing funds described in
1433 Subsection (10)(b) if the state auditor received a notice of registration, as that term is
1434 defined in Section 67-1a-15, from the lieutenant governor.
- 1435 (11) Notwithstanding Subsection (7)(g), (7)(h), (7)(i), (8)(b), (8)(d), or (10)(b), the state
1436 auditor:
- 1437 (a) shall authorize a disbursement by a local government entity or limited purpose entity,
1438 as those terms are defined in Section 67-1a-15, or a state or local taxing or
1439 fee-assessing unit if the disbursement is necessary to:
- 1440 (i) avoid a major disruption in the operations of the local government entity, limited
1441 purpose entity, or state or local taxing or fee-assessing unit; or
1442 (ii) meet debt service obligations; and
1443 (b) may authorize a disbursement by a local government entity, limited purpose entity,
1444 or state or local taxing or fee-assessing unit as the state auditor determines is
1445 appropriate.
- 1446 (12)(a) The state auditor may seek relief under the Utah Rules of Civil Procedure to take
1447 temporary custody of public funds if an action is necessary to protect public funds
1448 from being improperly diverted from their intended public purpose.
- 1449 (b) If the state auditor seeks relief under Subsection (12)(a):
- 1450 (i) the state auditor is not required to exhaust the procedures in Subsection (7) or (8);
1451 and
1452 (ii) the state treasurer may hold the public funds in accordance with Section 67-4-1 if
1453 a court orders the public funds to be protected from improper diversion from their
1454 public purpose.
- 1455 (13) The state auditor shall:
- 1456 (a) establish audit guidelines and procedures for audits of local mental health and

1457 substance abuse authorities and their contract providers, conducted pursuant to Title
1458 17, Chapter 43, Part 2, Local Substance Abuse Authorities, Title 17, Chapter 43, Part
1459 3, Local Mental Health Authorities, Title 26B, Chapter 5, Health Care - Substance
1460 Use and Mental Health, and Title 51, Chapter 2a, Accounting Reports from Political
1461 Subdivisions, Interlocal Organizations, and Other Local Entities Act; and

1462 (b) ensure that those guidelines and procedures provide assurances to the state that:

1463 (i) state and federal funds appropriated to local mental health authorities are used for
1464 mental health purposes;

1465 (ii) a private provider under an annual or otherwise ongoing contract to provide
1466 comprehensive mental health programs or services for a local mental health
1467 authority is in compliance with state and local contract requirements and state and
1468 federal law;

1469 (iii) state and federal funds appropriated to local substance abuse authorities are used
1470 for substance abuse programs and services; and

1471 (iv) a private provider under an annual or otherwise ongoing contract to provide
1472 comprehensive substance abuse programs or services for a local substance abuse
1473 authority is in compliance with state and local contract requirements, and state and
1474 federal law.

1475 (14)(a) The state auditor may, in accordance with the auditor's responsibilities for
1476 political subdivisions of the state as provided in Title 51, Chapter 2a, Accounting
1477 Reports from Political Subdivisions, Interlocal Organizations, and Other Local
1478 Entities Act, initiate audits or investigations of any political subdivision that are
1479 necessary to determine honesty and integrity in fiscal affairs, accuracy and reliability
1480 of financial statements, effectiveness, and adequacy of financial controls and
1481 compliance with the law.

1482 (b) If the state auditor receives notice under Subsection 11-41-104(7) from the
1483 Governor's Office of Economic Opportunity on or after July 1, 2024, the state auditor
1484 may initiate an audit or investigation of the public entity subject to the notice to
1485 determine compliance with Section 11-41-103.

1486 (15)(a) The state auditor may not audit work that the state auditor performed before
1487 becoming state auditor.

1488 (b) If the state auditor has previously been a responsible official in state government
1489 whose work has not yet been audited, the Legislature shall:

1490 (i) designate how that work shall be audited; and

- 1491 (ii) provide additional funding for those audits, if necessary.
- 1492 (16) The state auditor shall:
- 1493 (a) with the assistance, advice, and recommendations of an advisory committee
- 1494 appointed by the state auditor from among special district boards of trustees, officers,
- 1495 and employees and special service district boards, officers, and employees:
- 1496 (i) prepare a Uniform Accounting Manual for Special Districts that:
- 1497 (A) prescribes a uniform system of accounting and uniform budgeting and
- 1498 reporting procedures for special districts under Title 17B, Limited Purpose
- 1499 Local Government Entities - Special Districts, and special service districts
- 1500 under Title 17D, Chapter 1, Special Service District Act;
- 1501 (B) conforms with generally accepted accounting principles; and
- 1502 (C) prescribes reasonable exceptions and modifications for smaller districts to the
- 1503 uniform system of accounting, budgeting, and reporting;
- 1504 (ii) maintain the manual under this Subsection (16)(a) so that the manual continues to
- 1505 reflect generally accepted accounting principles;
- 1506 (iii) conduct a continuing review and modification of procedures in order to improve
- 1507 them;
- 1508 (iv) prepare and supply each district with suitable budget and reporting forms; and
- 1509 (v)(A) prepare instructional materials, conduct training programs, and render other
- 1510 services considered necessary to assist special districts and special service
- 1511 districts in implementing the uniform accounting, budgeting, and reporting
- 1512 procedures; and
- 1513 (B) ensure that any training described in Subsection (16)(a)(v)(A) complies with
- 1514 Title 63G, Chapter 22, State Training and Certification Requirements; and
- 1515 (b) continually analyze and evaluate the accounting, budgeting, and reporting practices
- 1516 and experiences of specific special districts and special service districts selected by
- 1517 the state auditor and make the information available to all districts.
- 1518 (17)(a) The following records in the custody or control of the state auditor are protected
- 1519 records under Title 63G, Chapter 2, Government Records Access and Management
- 1520 Act:
- 1521 (i) records that would disclose information relating to allegations of personal
- 1522 misconduct, gross mismanagement, or illegal activity of a past or present
- 1523 governmental employee if the information or allegation cannot be corroborated by
- 1524 the state auditor through other documents or evidence, and the records relating to

- 1525 the allegation are not relied upon by the state auditor in preparing a final audit
1526 report;
- 1527 (ii) records and audit workpapers to the extent the workpapers would disclose the
1528 identity of an individual who during the course of an audit, communicated the
1529 existence of any waste of public funds, property, or manpower, or a violation or
1530 suspected violation of a law, rule, or regulation adopted under the laws of this
1531 state, a political subdivision of the state, or any recognized entity of the United
1532 States, if the information was disclosed on the condition that the identity of the
1533 individual be protected;
- 1534 (iii) before an audit is completed and the final audit report is released, records or
1535 drafts circulated to an individual who is not an employee or head of a
1536 governmental entity for the individual's response or information;
- 1537 (iv) records that would disclose an outline or part of any audit survey plans or audit
1538 program; and
- 1539 (v) requests for audits, if disclosure would risk circumvention of an audit.
- 1540 (b) The provisions of Subsections (17)(a)(i), (ii), and (iii) do not prohibit the disclosure
1541 of records or information that relate to a violation of the law by a governmental entity
1542 or employee to a government prosecutor or peace officer.
- 1543 (c) The provisions of this Subsection (17) do not limit the authority otherwise given to
1544 the state auditor to classify a document as public, private, controlled, or protected
1545 under Title 63G, Chapter 2, Government Records Access and Management Act.
- 1546 (d)(i) As used in this Subsection (17)(d), "record dispute" means a dispute between
1547 the state auditor and the subject of an audit performed by the state auditor as to
1548 whether the state auditor may release a record, as defined in Section 63G-2-103,
1549 to the public that the state auditor gained access to in the course of the state
1550 auditor's audit but which the subject of the audit claims is not subject to disclosure
1551 under Title 63G, Chapter 2, Government Records Access and Management Act.
- 1552 (ii) The state auditor may submit a record dispute to the State Records Committee,
1553 created in Section 63G-2-501, for a determination of whether the state auditor
1554 may, in conjunction with the state auditor's release of an audit report, release to
1555 the public the record that is the subject of the record dispute.
- 1556 (iii) The state auditor or the subject of the audit may seek judicial review of a State
1557 Records Committee determination under Subsection (17)(d)(ii), as provided in
1558 Section 63G-2-404.

- 1559 (18) If the state auditor conducts an audit of an entity that the state auditor has previously
1560 audited and finds that the entity has not implemented a recommendation made by the
1561 state auditor in a previous audit, the state auditor shall notify the Legislative
1562 Management Committee through the Legislative Management Committee's audit
1563 subcommittee that the entity has not implemented that recommendation.
- 1564 (19) The state auditor shall, with the advice and consent of the Senate, appoint the [~~state~~
1565 ~~privacy officer~~] state privacy auditor described in Section 67-3-13.
- 1566 (20) Except as provided in Subsection (21), the state auditor shall report, or ensure that
1567 another government entity reports, on the financial, operational, and performance
1568 metrics for the state system of higher education and the state system of public education,
1569 including metrics in relation to students, programs, and schools within those systems.
- 1570 (21)(a) Notwithstanding Subsection (20), the state auditor shall conduct regular audits of:
1571 (i) the scholarship granting organization for the Carson Smith Opportunity
1572 Scholarship Program, created in Section 53E-7-402;
1573 (ii) the State Board of Education for the Carson Smith Scholarship Program, created
1574 in Section 53F-4-302; and
1575 (iii) the scholarship program manager for the Utah Fits All Scholarship Program,
1576 created in Section 53F-6-402, including an analysis of the cost effectiveness of the
1577 program, taking into consideration the amount of the scholarship and the amount
1578 of state and local funds dedicated on a per-student basis within the traditional
1579 public education system.
- 1580 (b) Nothing in this subsection limits or impairs the authority of the State Board of
1581 Education to administer the programs described in Subsection (21)(a).
- 1582 (22) The state auditor shall, based on the information posted by the Office of Legislative
1583 Research and General Counsel under Subsection 36-12-12.1(2), for each policy, track
1584 and post the following information on the state auditor's website:
1585 (a) the information posted under Subsections 36-12-12.1(2)(a) through (e);
1586 (b) an indication regarding whether the policy is timely adopted, adopted late, or not
1587 adopted;
1588 (c) an indication regarding whether the policy complies with the requirements
1589 established by law for the policy; and
1590 (d) a link to the policy.
- 1591 (23)(a) A legislator may request that the state auditor conduct an inquiry to determine
1592 whether a government entity, government official, or government employee has

- 1593 complied with a legal obligation directly imposed, by statute, on the government
 1594 entity, government official, or government employee.
- 1595 (b) The state auditor may, upon receiving a request under Subsection (23)(a), conduct
 1596 the inquiry requested.
- 1597 (c) If the state auditor conducts the inquiry described in Subsection (23)(b), the state
 1598 auditor shall post the results of the inquiry on the state auditor's website.
- 1599 (d) The state auditor may limit the inquiry described in this Subsection (23) to a simple
 1600 determination, without conducting an audit, regarding whether the obligation was
 1601 fulfilled.

1602 (24) The state auditor shall:

- 1603 (a) ensure compliance with Title 63G, Chapter 31, Distinctions on the Basis of Sex, in
 1604 accordance with Section 63G-31-401; and
- 1605 (b) report to the Legislative Management Committee, upon request, regarding the state
 1606 auditor's actions under this Subsection (24).

1607 (25) The state auditor shall report compliance with Sections 67-27-107, 67-27-108, and
 1608 67-27-109 by:

- 1609 (a) establishing a process to receive and audit each alleged violation; and
- 1610 (b) reporting to the Legislative Management Committee, upon request, regarding the
 1611 state auditor's findings and recommendations under this Subsection (25).

1612 Section 27. Section **67-3-13** is amended to read:

1613 **67-3-13 . State privacy auditor.**

1614 (1) As used in this section:

- 1615 [~~(a) "Designated governmental entity" means a governmental entity that is not a state~~
 1616 ~~agency.]~~
- 1617 [~~(b) "Independent entity" means the same as that term is defined in Section 63E-1-102.]~~
- 1618 [~~(c)~~] (a) "Governmental entity" means the same as that term is defined in Section
 1619 63G-2-103.
- 1620 [~~(d)~~] (b) "Personal data" means the same as that term is defined in Section 63A-19-101.
- 1621 (c) "Privacy practice" means the same as that term is defined in Section 63A-19-101.
- 1622 (d) "State agency" means the same as that term is defined in Section 63A-19-101.
- 1623 (e) "State privacy auditor" means the individual appointed as state privacy auditor by the
 1624 state auditor under Section 67-3-1.
- 1625 [~~(e)(i) "Privacy practice" means the acquisition, use, storage, or disposal of personal~~
 1626 ~~data.]~~

- 1627 (ii) "Privacy practice" includes:]
- 1628 [(A) a technology use related to personal data; and]
- 1629 [(B) policies related to the protection, storage, sharing, and retention of personal
- 1630 data.]
- 1631 (f)(i) "State agency" means the following entities that are under the direct
- 1632 supervision and control of the governor or the lieutenant governor:]
- 1633 [(A) a department;]
- 1634 [(B) a commission;]
- 1635 [(C) a board;]
- 1636 [(D) a council;]
- 1637 [(E) an institution;]
- 1638 [(F) an officer;]
- 1639 [(G) a corporation;]
- 1640 [(H) a fund;]
- 1641 [(I) a division;]
- 1642 [(J) an office;]
- 1643 [(K) a committee;]
- 1644 [(L) an authority;]
- 1645 [(M) a laboratory;]
- 1646 [(N) a library;]
- 1647 [(O) a bureau;]
- 1648 [(P) a panel;]
- 1649 [(Q) another administrative unit of the state; or]
- 1650 [(R) an agent of an entity described in Subsections (A) through (Q).]
- 1651 (ii) "State agency" does not include:]
- 1652 [(A) the legislative branch;]
- 1653 [(B) the judicial branch;]
- 1654 [(C) an executive branch agency within the Office of the Attorney General, the
- 1655 state auditor, the state treasurer, or the State Board of Education; or]
- 1656 [(D) an independent entity.]
- 1657 (2) The [state privacy officer] state privacy auditor shall:
- 1658 [(a) when completing the duties of this Subsection (2), focus on the privacy practices of
- 1659 designated governmental entities;]
- 1660 [(b)] (a) compile information about [government] the privacy practices of [designated]

- 1661 governmental entities;
- 1662 ~~[(e)]~~ (b) make public and maintain information about ~~[government]~~ the privacy practices
- 1663 of governmental entities on the state auditor's website;
- 1664 ~~[(d)]~~ (c) provide ~~[designated-]~~ governmental entities with ~~[educational and training~~
- 1665 ~~materials developed by the Utah Privacy Commission established in Section~~
- 1666 ~~63C-24-201 that include the information described in Subsection 63C-24-202(1)(b)]~~
- 1667 guidance and training regarding the data privacy auditing standards developed by the
- 1668 state privacy auditor;
- 1669 ~~[(e)]~~ (d) implement a process to analyze and respond to requests from individuals for the [~~state privacy officer to review a designated-]~~ state privacy auditor to audit a
- 1670 governmental entity's privacy practice;
- 1671
- 1672 ~~[(f)]~~ (e) identify annually which ~~[designated-]~~ governmental entities' privacy practices
- 1673 pose the greatest risk to individual privacy and prioritize those privacy practices [~~for~~
- 1674 ~~review]~~ to be audited;
- 1675 ~~[(g)]~~ (f) ~~[review-]~~ audit each year, in as timely a manner as possible, the privacy practices
- 1676 that the state privacy [~~officer]~~ auditor identifies under Subsection ~~[(2)(e) or (2)(f)]~~
- 1677 (2)(d) or (2)(e) as posing the greatest risk to individuals' privacy;
- 1678 ~~[(h)]~~ (g) when ~~[reviewing a designated-]~~ auditing a governmental entity's privacy practice
- 1679 under Subsection ~~[(2)(g)-]~~ (2)(f), analyze:
- 1680 (i) details about the technology or the policy and the technology's or the policy's
- 1681 application;
- 1682 (ii) information about the type of personal data being used;
- 1683 (iii) information about how the personal data is obtained, stored, shared, secured, and
- 1684 disposed;
- 1685 (iv) information about ~~[with which persons the designated]~~ the governmental [~~entity~~
- 1686 ~~shares the information]~~ entity's sharing or selling of personal data;
- 1687 (v) information about whether an individual can or should be able to opt out of the
- 1688 retention, selling, and sharing of the individual's personal data;
- 1689 (vi) information about how the ~~[designated-]~~ governmental entity de-identifies or
- 1690 anonymizes personal data;
- 1691 (vii) a determination about the existence of alternative technology or improved
- 1692 practices to protect privacy; and
- 1693 (viii) a finding of whether the ~~[designated-]~~ governmental entity's current privacy [~~practice]~~
- 1694 practices adequately [~~protects]~~ protect individual privacy; and

- 1695 [(†)] (h) after completing [a review] an audit described in Subsections [(2)(g)] (2)(f) and [
1696 (h)] (g), determine:
- 1697 (i) each [~~designated~~]governmental entity's use of personal data, including the [
1698 ~~designated~~]governmental entity's privacy practices regarding personal data:
1699 (A) acquisition;
1700 (B) storage;
1701 (C) disposal;
1702 (D) protection; and
1703 (E) sharing;
- 1704 (ii) the adequacy of the [~~designated~~]governmental entity's practices in each of the
1705 areas described in Subsection [(2)(i)(i);] (2)(h)(i); and
1706 (iii) for each of the areas described in Subsection [(2)(i)(i)-] (2)(h)(i) that the [~~state~~
1707 ~~privacy officer~~] state privacy auditor determines to require reform, provide
1708 recommendations for reform to the [~~designated~~]governmental entity and the
1709 legislative body charged with regulating the [~~designated~~]governmental entity.
- 1710 (3)(a) The legislative body charged with regulating a [~~designated~~]governmental entity
1711 that receives a recommendation described in Subsection [(2)(i)(iii)-] (2)(h)(iii) shall
1712 hold a public hearing on the proposed reforms:
- 1713 (i) with a quorum of the legislative body present; and
1714 (ii) within 90 days after the day on which the legislative body receives the
1715 recommendation.
- 1716 (b)(i) The legislative body shall provide notice of the hearing described in Subsection
1717 (3)(a).
1718 (ii) Notice of the public hearing and the recommendations to be discussed shall be
1719 posted for the jurisdiction of the [~~designated~~]governmental entity, as a class A
1720 notice under Section 63G-30-102, for at least 30 days before the day on which the
1721 legislative body will hold the public hearing.
1722 (iii) Each notice required under Subsection (3)(b)(i) shall:
1723 (A) identify the recommendations to be discussed; and
1724 (B) state the date, time, and location of the public hearing.
- 1725 (c) During the hearing described in Subsection (3)(a), the legislative body shall:
1726 (i) provide the public the opportunity to ask questions and obtain further information
1727 about the recommendations; and
1728 (ii) provide any interested person an opportunity to address the legislative body with

1729 concerns about the recommendations.

1730 (d) At the conclusion of the hearing, the legislative body shall determine whether the
1731 legislative body shall adopt reforms to address the recommendations and any
1732 concerns raised during the public hearing.

1733 [~~(4)(a) Except as provided in Subsection (4)(b), if the chief privacy officer described in~~
1734 ~~Section 63A-19-302 is not conducting reviews of the privacy practices of state~~
1735 ~~agencies, the state privacy officer may review the privacy practices of a state agency~~
1736 ~~in accordance with the processes described in this section.]~~

1737 [(b)] (4) Subsection (3) does not apply to[-] :

1738 (a) a state agency[-] ;

1739 (b) the legislative branch;

1740 (c) the judicial branch;

1741 (d) an executive branch agency within the Office of the Attorney General, the state
1742 auditor, the state treasurer, or the State Board of Education; or

1743 (e) an independent entity.

1744 (5) The [~~state privacy officer~~] state privacy auditor shall:

1745 (a) quarterly report, to the Utah Privacy Commission:

1746 (i) recommendations for privacy practices for the commission to review; and

1747 (ii) the information provided in Subsection [~~(2)(i)~~] (2)(h); and

1748 (b) annually, on or before October 1, report to the Judiciary Interim Committee:

1749 (i) the results of any [~~reviews~~] audits described in Subsection [~~(2)(g)~~], (2)(f), if any [
1750 ~~reviews~~] audits have been completed;

1751 (ii) reforms, to the extent that the [~~state privacy officer~~] state privacy auditor is aware
1752 of any reforms, that the [~~designated~~] governmental entity made in response to any [
1753 ~~reviews~~] audits described in Subsection [~~(2)(g)~~]; (2)(f);

1754 (iii) the information described in Subsection [~~(2)(i)~~] (2)(h); and

1755 [~~(iv) reports received from designated governmental entities regarding the sale or~~
1756 ~~sharing of personal data provided under Subsection 63A-19-401(2)(f)(i); and]~~

1757 [(v)] (iv) recommendations for legislation based on any results of [~~a review~~] an audit
1758 described in Subsection [~~(2)(g)~~] (2)(f).

1759 Section 28. Section **78A-2-233**, which is renumbered from Section 63D-2-104 is renumbered
1760 and amended to read:

1761 **[~~63D-2-104~~] 78A-2-233 . Posting certain information on a court website.**

1762 (1) As used in this section:

- 1763 (a) "Court website" means a government website operated by or on behalf of any court
 1764 created in Title 78A, Chapter 1, Judiciary.
- 1765 (b) "Government website" means the same as that term is defined in Section 63A-19-101.
- 1766 (c) "Personal data" means the same as that term is defined in Section 63A-19-101.
- 1767 (2) Except as provided in Subsections [~~(2)~~] (3) and [~~(3)~~] (4), a court website:
- 1768 (a) may not display [~~personally identifiable information~~] personal data; and
- 1769 (b) shall contain a conspicuous notice that includes a list of documents routinely posted
 1770 on the court website.
- 1771 [~~(2)~~] (3) This section does not prohibit access to any original document as provided by law.
- 1772 [~~(3)~~] (4) This section does not apply to:
- 1773 (a) the Registry of Judgments created in Section 78B-5-201, if the Registry of
 1774 Judgments complies with Subsection [~~(3)(b)~~] (4)(b);
- 1775 (b) remote access to a document through a network or system that:
- 1776 (i) is secure; and
- 1777 (ii) provides restricted access through security standards developed by the court,
 1778 including a registration requirement under which a prospective user must provide
 1779 the prospective user's:
- 1780 (A) identity;
- 1781 (B) business or residence address; and
- 1782 (C) citizenship status;
- 1783 (c) postings related to legitimate law enforcement purposes;
- 1784 (d) postings of documents filed or recorded more than 100 years prior to the posting;
- 1785 (e) postings of:
- 1786 (i) historical information;
- 1787 (ii) genealogical information;
- 1788 (iii) interpretive information about historic persons and events; or
- 1789 (iv) educational information about historic persons and events; or
- 1790 (f) postings of information instructing a user how to contact a website operator,
 1791 employee, or other representative of the court.

1792 Section 29. **Repealer.**

1793 This bill repeals:

1794 Section **63A-12-115, Privacy annotation for records series -- Requirements -- Content.**

1795 Section **63C-24-101, Title.**

1796 Section **63C-24-102, Definitions.**

1797 Section **63D-2-101, Title.**

1798 Section **63D-2-102, Definitions.**

1799 Section **63D-2-103, Collection of personally identifiable information.**

1800 Section 30. **Effective Date.**

1801 This bill takes effect:

1802 (1) except as provided in Subsection (2), May 7, 2025; or

1803 (2) if approved by two-thirds of all members elected to each house:

1804 (a) upon approval by the governor;

1805 (b) without the governor's signature, the day following the constitutional time limit of
1806 Utah Constitution, Article VII, Section 8; or

1807 (c) in the case of a veto, the date of veto override.