

1 **AMENDMENTS TO GOVERNMENT RECORDS**

2 **ACCESS AND MANAGEMENT ACT**

3 2006 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Douglas C. Aagard**

6 Senate Sponsor: David L. Thomas

7

8 **LONG TITLE**

9 **General Description:**

10 This bill makes amendments to the treatment of records under the Government Records
11 Access and Management Act.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ modifies the definition of records subject to the act to exclude a personal note or
15 personal communication prepared or received by an employee or officer of a
16 governmental entity in the employee's or officer's private capacity;
- 17 ▶ provides that internal communications that are part of the deliberative process in
18 connection with the preparation of legislation between members of a legislative
19 body or the legislative body's staff are protected records;
- 20 ▶ requires that governmental entities give notice to persons who are providing private
21 or controlled information as to how the information is currently used and shared;
- 22 ▶ clarifies that certain government entities shall submit records retention schedules for
23 approval by the State Records Committee;
- 24 ▶ provides that government entities that do not submit retention schedules for
25 approval shall be governed by the model retention schedule maintained by the state
26 archivist;
- 27 ▶ clarifies that the Legislature may set its own retention schedules and records
28 management, notice, and amendment policies;
- 29 ▶ clarifies that the judiciary may set its own retention schedules and records

30 management policies; and
31 ▶ makes technical changes.

32 **Monies Appropriated in this Bill:**

33 None

34 **Other Special Clauses:**

35 None

36 **Utah Code Sections Affected:**

37 AMENDS:

38 **63-2-103**, as last amended by Chapters 40 and 201, Laws of Utah 2005

39 **63-2-304**, as last amended by Chapters 2, 131, 201, 214, 256 and 297, Laws of Utah

40 2005

41 **63-2-601**, as last amended by Chapter 280, Laws of Utah 1992

42 **63-2-702**, as last amended by Chapter 280, Laws of Utah 1992

43 **63-2-703**, as last amended by Chapters 228 and 280, Laws of Utah 1992

44 ENACTS:

45 **63-2-604**, Utah Code Annotated 1953



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

48 Section 1. Section **63-2-103** is amended to read:

49 **63-2-103. Definitions.**

50 As used in this chapter:

51 (1) "Audit" means:

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

53 for the purpose of determining the fair presentation of financial statements, adequacy of

54 internal controls, or compliance with laws and regulations; or

55 (b) a systematic examination of program procedures and operations for the purpose of

56 determining their effectiveness, economy, efficiency, and compliance with statutes and

57 regulations.

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

- 60 (a) the time and general nature of police, fire, and paramedic calls made to the agency;
- 61 (b) and any arrests or jail bookings made by the agency.

62 (3) "Classification," "classify," and their derivative forms mean determining whether a
63 record series, record, or information within a record is public, private, controlled, protected, or
64 exempt from disclosure under Subsection 63-2-201(3)(b).

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

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

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

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

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

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

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

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

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

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

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

83 (6) "Controlled record" means a record containing data on individuals that is controlled
84 as provided by Section 63-2-303.

85 (7) "Designation," "designate," and their derivative forms mean indicating, based on a

86 governmental entity's familiarity with a record series or based on a governmental entity's
87 review of a reasonable sample of a record series, the primary classification that a majority of
88 records in a record series would be given if classified and the classification that other records
89 typically present in the record series would be given if classified.

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

93 [~~8~~] (9) "Explosive" means a chemical compound, device, or mixture:

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

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

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

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

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

101 (B) causing death or serious bodily injury.

102 [~~9~~] (10) "Government audit agency" means any governmental entity that conducts an
103 audit.

104 [~~10~~] (11) (a) "Governmental entity" means:

105 (i) executive department agencies of the state, the offices of the governor, lieutenant
106 governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole,
107 the Board of Examiners, the National Guard, the Career Service Review Board, the State Board
108 of Education, the State Board of Regents, and the State Archives;

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

113 (iii) courts, the Judicial Council, the Office of the Court Administrator, and similar

114 administrative units in the judicial branch;

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

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

120 (b) "Governmental entity" also means every office, agency, board, bureau, committee,
121 department, advisory board, or commission of an entity listed in Subsection ~~[(10)]~~ (11)(a) that
122 is funded or established by the government to carry out the public's business.

123 ~~[(11)]~~ (12) "Gross compensation" means every form of remuneration payable for a
124 given period to an individual for services provided including salaries, commissions, vacation
125 pay, severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any
126 similar benefit received from the individual's employer.

127 ~~[(12)]~~ (13) "Individual" means a human being.

128 ~~[(13)]~~ (14) (a) "Initial contact report" means an initial written or recorded report,
129 however titled, prepared by peace officers engaged in public patrol or response duties
130 describing official actions initially taken in response to either a public complaint about or the
131 discovery of an apparent violation of law, which report may describe:

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

133 (ii) names of victims;

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

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

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

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

141 (b) Initial contact reports do not include follow-up or investigative reports prepared

142 after the initial contact report. However, if the information specified in Subsection [~~(13)~~]
143 (14)(a) appears in follow-up or investigative reports, it may only be treated confidentially if it
144 is private, controlled, protected, or exempt from disclosure under Subsection 63-2-201(3)(b).

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

146 [~~(14)~~] (16) "Notice of compliance" means a statement confirming that a governmental
147 entity has complied with a records committee order.

148 [~~(15)~~] (17) "Person" means:

- 149 (a) an individual;
- 150 (b) a nonprofit or profit corporation;
- 151 (c) a partnership;
- 152 (d) a sole proprietorship;
- 153 (e) other type of business organization; or
- 154 (f) any combination acting in concert with one another.

155 [~~(16)~~] (18) "Private provider" means any person who contracts with a governmental
156 entity to provide services directly to the public.

157 [~~(17)~~] (19) "Private record" means a record containing data on individuals that is
158 private as provided by Section 63-2-302.

159 [~~(18)~~] (20) "Protected record" means a record that is classified protected as provided by
160 Section 63-2-304.

161 [~~(19)~~] (21) "Public record" means a record that is not private, controlled, or protected
162 and that is not exempt from disclosure as provided in Subsection 63-2-201(3)(b).

163 [~~(20)~~] (22) (a) "Record" means a book, letter, document, paper, map, plan, photograph,
164 film, card, tape, recording, electronic data, or other documentary material regardless of physical
165 form or characteristics:

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

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

- 170 (b) "Record" does not mean:
- 171 (i) a personal note or personal communication prepared or received by an employee or
- 172 officer of a governmental entity in the employee's or officer's private capacity;
- 173 ~~(i)~~ (ii) a temporary draft or similar material prepared for the originator's personal use
- 174 or prepared by the originator for the personal use of an individual for whom the originator is
- 175 working;
- 176 ~~(ii)~~ (iii) material that is legally owned by an individual in the individual's private
- 177 capacity;
- 178 ~~(iii)~~ (iv) material to which access is limited by the laws of copyright or patent unless
- 179 the copyright or patent is owned by a governmental entity or political subdivision;
- 180 ~~(iv)~~ (v) proprietary software;
- 181 ~~(v)~~ (vi) junk mail or a commercial publication received by a governmental entity or
- 182 an official or employee of a governmental entity;
- 183 ~~(vi)~~ (vii) a book that is cataloged, indexed, or inventoried and contained in the
- 184 collections of a library open to the public;
- 185 ~~(vii)~~ (viii) material that is cataloged, indexed, or inventoried and contained in the
- 186 collections of a library open to the public, regardless of physical form or characteristics of the
- 187 material;
- 188 ~~(viii)~~ (ix) a daily calendar or other personal note prepared by the originator for the
- 189 originator's personal use or for the personal use of an individual for whom the originator is
- 190 working;
- 191 ~~(ix)~~ (x) a computer program that is developed or purchased by or for any
- 192 governmental entity for its own use; or
- 193 ~~(x)~~ (xi) a note or internal memorandum prepared as part of the deliberative process
- 194 by:
- 195 (A) a member of the judiciary;
- 196 (B) an administrative law judge;
- 197 (C) a member of the Board of Pardons and Parole; or

198 (D) a member of any other body charged by law with performing a quasi-judicial
199 function.

200 [~~(21)~~] (23) "Record series" means a group of records that may be treated as a unit for
201 purposes of designation, description, management, or disposition.

202 [~~(22)~~] (24) "Records committee" means the State Records Committee created in
203 Section 63-2-501.

204 [~~(23)~~] (25) "Records officer" means the individual appointed by the chief
205 administrative officer of each governmental entity, or the political subdivision to work with
206 state archives in the care, maintenance, scheduling, designation, classification, disposal, and
207 preservation of records.

208 [~~(24)~~] (26) "Schedule," "scheduling," and their derivative forms mean the process of
209 specifying the length of time each record series should be retained by a governmental entity for
210 administrative, legal, fiscal, or historical purposes and when each record series should be
211 transferred to the state archives or destroyed.

212 [~~(25)~~] (27) "Sponsored research" means research, training, and other sponsored
213 activities as defined by the federal Executive Office of the President, Office of Management
214 and Budget:

215 (a) conducted:

216 (i) by an institution within the state system of higher education defined in Section
217 53B-1-102; and

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

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

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

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

223 [~~(26)~~] (28) "State archives" means the Division of Archives and Records Service
224 created in Section 63-2-901.

225 [~~(27)~~] (29) "State archivist" means the director of the state archives.

226 [~~(28)~~] (30) "Summary data" means statistical records and compilations that contain
227 data derived from private, controlled, or protected information but that do not disclose private,
228 controlled, or protected information.

229 Section 2. Section **63-2-304** is amended to read:

230 **63-2-304. Protected records.**

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

232 (1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret
233 has provided the governmental entity with the information specified in Section 63-2-308;

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

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

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

241 (c) the person submitting the information has provided the governmental entity with
242 the information specified in Section 63-2-308;

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

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

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

252 (6) records the disclosure of which would impair governmental procurement
253 proceedings or give an unfair advantage to any person proposing to enter into a contract or

254 agreement with a governmental entity, except that this Subsection (6) does not restrict the right
255 of a person to see bids submitted to or by a governmental entity after bidding has closed;

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

259 (a) public interest in obtaining access to the information outweighs the governmental
260 entity's need to acquire the property on the best terms possible;

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

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

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

268 (e) the property under consideration for public acquisition is a single family residence
269 and the governmental entity seeking to acquire the property has initiated negotiations to acquire
270 the property as required under Section 78-34-4.5;

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

275 (a) the public interest in access outweighs the interests in restricting access, including
276 the governmental entity's interest in maximizing the financial benefit of the transaction; or

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

280 (9) records created or maintained for civil, criminal, or administrative enforcement
281 purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if

282 release of the records:

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

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

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

289 (d) reasonably could be expected to disclose the identity of a source who is not
290 generally known outside of government and, in the case of a record compiled in the course of
291 an investigation, disclose information furnished by a source not generally known outside of
292 government if disclosure would compromise the source; or

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

296 (10) records the disclosure of which would jeopardize the life or safety of an
297 individual;

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

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

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

309 (14) records and audit workpapers that identify audit, collection, and operational

310 procedures and methods used by the State Tax Commission, if disclosure would interfere with
311 audits or collections;

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

314 (16) records prepared by or on behalf of a governmental entity solely in anticipation of
315 litigation that are not available under the rules of discovery;

316 (17) records disclosing an attorney's work product, including the mental impressions or
317 legal theories of an attorney or other representative of a governmental entity concerning
318 litigation;

319 (18) records of communications between a governmental entity and an attorney
320 representing, retained, or employed by the governmental entity if the communications would be
321 privileged as provided in Section 78-24-8;

322 (19) (a) (i) personal files of a state legislator, including personal correspondence to or
323 from a member of the Legislature[~~; provided that~~]; and

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

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

328 (A) members of a legislative body;

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

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

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

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

337 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the

338 Office of Legislative Research and General Counsel is a public document unless a legislator
339 asks that the records requesting the legislation be maintained as protected records until such
340 time as the legislator elects to make the legislation or course of action public;

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

344 (22) drafts, unless otherwise classified as public;

345 (23) records concerning a governmental entity's strategy about collective bargaining or
346 pending litigation;

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

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

353 (26) records that reveal the location of historic, prehistoric, paleontological, or
354 biological resources that if known would jeopardize the security of those resources or of
355 valuable historic, scientific, educational, or cultural information;

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

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

364 (29) records of the governor's office, including budget recommendations, legislative
365 proposals, and policy statements, that if disclosed would reveal the governor's contemplated

366 policies or contemplated courses of action before the governor has implemented or rejected
367 those policies or courses of action or made them public;

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

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

375 (32) transcripts, minutes, or reports of the closed portion of a meeting of a public body
376 except as provided in Section 52-4-7;

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

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

383 (35) records that would reveal negotiations regarding assistance or incentives offered
384 by or requested from a governmental entity for the purpose of encouraging a person to expand
385 or locate a business in Utah, but only if disclosure would result in actual economic harm to the
386 person or place the governmental entity at a competitive disadvantage, but this section may not
387 be used to restrict access to a record evidencing a final contract;

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

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

394 the donor, provided that:

395 (a) the donor requests anonymity in writing;

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

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

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

405 (39) a notification of workers' compensation insurance coverage described in Section
406 34A-2-205;

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

410 (i) unpublished lecture notes;

411 (ii) unpublished notes, data, and information:

412 (A) relating to research; and

413 (B) of:

414 (I) the institution within the state system of higher education defined in Section
415 53B-1-102; or

416 (II) a sponsor of sponsored research;

417 (iii) unpublished manuscripts;

418 (iv) creative works in process;

419 (v) scholarly correspondence; and

420 (vi) confidential information contained in research proposals;

421 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public

422 information required pursuant to Subsection 53B-16-302(2)(a) or (b); and
423 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;
424 (41) (a) records in the custody or control of the Office of Legislative Auditor General
425 that would reveal the name of a particular legislator who requests a legislative audit prior to the
426 date that audit is completed and made public; and
427 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the
428 Office of the Legislative Auditor General is a public document unless the legislator asks that
429 the records in the custody or control of the Office of Legislative Auditor General that would
430 reveal the name of a particular legislator who requests a legislative audit be maintained as
431 protected records until the audit is completed and made public;
432 (42) records that provide detail as to the location of an explosive, including a map or
433 other document that indicates the location of:
434 (a) a production facility; or
435 (b) a magazine;
436 (43) information contained in the database described in Section 62A-3-311.1;
437 (44) information contained in the Management Information System and Licensing
438 Information System described in Title 62A, Chapter 4a, Child and Family Services;
439 (45) information regarding National Guard operations or activities in support of the
440 National Guard's federal mission;
441 (46) records provided by any pawnbroker or pawnshop to a law enforcement agency or
442 to the central database in compliance with Title 13, Chapter 32a, Pawnshop Transaction
443 Information Act;
444 (47) information regarding food security, risk, and vulnerability assessments performed
445 by the Department of Agriculture and Food;
446 (48) except to the extent that the record is exempt from this chapter pursuant to Section
447 63-2-106, records related to an emergency plan or program prepared or maintained by the
448 Division of Emergency Services and Homeland Security the disclosure of which would
449 jeopardize:

- 450 (a) the safety of the general public; or
- 451 (b) the security of:
 - 452 (i) governmental property;
 - 453 (ii) governmental programs; or
 - 454 (iii) the property of a private person who provides the Division of Emergency Services
 - 455 and Homeland Security information;

456 (49) records of the Department of Agriculture and Food relating to the National
 457 Animal Identification System or any other program that provides for the identification, tracing,
 458 or control of livestock diseases, including any program established under Title 4, Chapter 24,
 459 Utah Livestock Brand and Anti-theft Act or Title 4, Chapter 31, [~~Utah~~] Livestock Inspection
 460 and Quarantine; [~~and~~]

461 (50) as provided in Section 26-39-109:

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

465 (b) information or records related to a complaint received by the Department of Health
 466 from an anonymous complainant regarding a child care program or residential child care.

467 Section 3. Section **63-2-601** is amended to read:

468 **Part 6. Collection of Information and Accuracy of Records**

469 **63-2-601. Rights of individuals on whom data is maintained -- Classification**
 470 **statement -- Notice to provider of information.**

471 (1) (a) Each governmental entity shall file with the state archivist a statement
 472 explaining the purposes for which a record series that is designated as private or controlled
 473 [are] is collected and used by that governmental entity.

474 (b) [~~That~~] The statement filed under Subsection (1)(a) is a public record.

475 (2) (a) [~~Upon request, each~~] A governmental entity shall [explain] provide notice of the
 476 following to [an individual] a person that is asked to furnish information that could be
 477 classified as a private or controlled record:

478 ~~[(a)]~~ (i) the reasons the ~~[individual]~~ person is asked to furnish ~~[to the governmental~~
479 ~~entity]~~ the information [that could be classified private or controlled];
480 ~~[(b)]~~ (ii) the intended uses of the information; ~~[and]~~
481 ~~[(c)]~~ (iii) the consequences for refusing to provide the information~~[-]; and~~
482 (iv) the classes of persons and the governmental entities that currently:
483 (A) share the information with the governmental entity; or
484 (B) receive the information from the governmental entity on a regular or contractual
485 basis.
486 (b) The notice shall be:
487 (i) posted in a prominent place at all locations where the governmental entity collects
488 the information; or
489 (ii) included as part of the documents or forms that are used by the governmental entity
490 to collect the information.
491 (3) Upon request, each governmental entity shall explain to a person:
492 (a) the reasons the person is asked to furnish information that could be classified as a
493 private or controlled record;
494 (b) the intended uses of the information referred to in Subsection (3)(a);
495 (c) the consequences for refusing to provide the information referred to in Subsection
496 (3)(a); and
497 (d) the reasons and circumstances under which the information referred to in
498 Subsection (3)(a) may be shared with or provided to other persons or governmental entities.
499 ~~[(3)]~~ (4) A governmental entity may ~~[not]~~ use private or controlled records only for
500 those purposes [other than those]:
501 (a) given in the statement filed with the state archivist under Subsection (1); or [for
502 purposes other than those for]
503 (b) for which another governmental entity [could] may use the record under Section
504 63-2-206.
505 Section 4. Section **63-2-604** is enacted to read:

506 **63-2-604. Retention and disposition of records.**

507 (1) (a) Except for a governmental entity that is permitted to maintain its own retention
508 schedules under Part 7, Applicability to Political Subdivisions, the Judiciary, and the
509 Legislature, each governmental entity shall file with the State Records Committee a proposed
510 schedule for the retention and disposition of each type of material that is defined as a record
511 under this chapter.

512 (b) After a retention schedule is reviewed and approved by the State Records
513 Committee under Subsection 63-2-502(1)(b), the governmental entity shall maintain and
514 destroy records in accordance with the retention schedule.

515 (c) If a governmental entity subject to the provisions of this section has not received an
516 approved retention schedule for a specific type of material that is classified as a record under
517 this chapter, the model retention schedule maintained by the state archivist shall govern the
518 retention and destruction of that type of material.

519 (2) A retention schedule that is filed with or approved by the State Records Committee
520 under the requirements of this section is a public record.

521 Section 5. Section **63-2-702** is amended to read:

522 **63-2-702. Applicability to the judiciary.**

523 (1) The judiciary is subject to the provisions of this chapter except as provided in this
524 section.

525 (2) (a) The judiciary is not subject to Part 4 [~~of this chapter~~], Appeals, except as
526 provided in Subsection (5).

527 (b) The judiciary is not subject to [~~Part 5 of this chapter~~] Parts 5, State Records
528 Committee, and 6, Collection of Information and Accuracy of Records.

529 (c) The judiciary is subject to only the following sections in Part 9 [~~of this chapter~~],
530 Archives and Records Service: Sections 63-2-905 and 63-2-906.

531 (3) The Judicial Council, the Administrative Office of the Courts, the courts, and other
532 administrative units in the judicial branch shall designate and classify their records in
533 accordance with Sections 63-2-301 through 63-2-304.

534 (4) Substantially consistent with the provisions of this chapter, the Judicial Council
535 shall:

536 (a) make rules governing requests for access, fees, classification, designation,
537 segregation, management, retention, denials and appeals of requests for access and retention,
538 and amendment of judicial records;

539 (b) establish an appellate board to handle appeals from denials of requests for access
540 and provide that a requester who is denied access by the appellate board may file a lawsuit in
541 district court; and

542 (c) provide standards for the management and retention of judicial records substantially
543 consistent with Section 63-2-903.

544 (5) Rules governing appeals from denials of requests for access shall substantially
545 comply with the time limits provided in Section 63-2-204 and Part 4 [~~of this chapter~~], Appeals.

546 (6) Upon request, the state archivist shall:

547 (a) assist with and advise concerning the establishment of a records management
548 program in the judicial branch; and

549 (b) as required by the judiciary, provide program services similar to those available to
550 the executive and legislative branches of government as provided in this chapter.

551 Section 6. Section **63-2-703** is amended to read:

552 **63-2-703. Applicability to the Legislature.**

553 (1) The Legislature and its staff offices shall designate and classify records in
554 accordance with Sections 63-2-301 through 63-2-304 as public, private, controlled, or
555 protected.

556 (2) (a) The Legislature and its staff offices are not subject to Section 63-2-203 or to
557 Part 4 [~~or~~], Appeals, 5 [~~of this chapter~~], State Records Committee, or 6, Collection of
558 Information and Accuracy of Records.

559 (b) The Legislature is subject to only the following sections in Part 9 [~~of this chapter~~],
560 Archives and Records Service: Sections 63-2-902, 63-2-906, and 63-2-909.

561 (3) The Legislature, through the Legislative Management Committee[;]:

562 (a) shall establish policies to handle requests for [~~records and~~] classification,
563 designation, fees, access, denials, segregation, appeals, management, retention, and amendment
564 of records; and

565 (b) may establish an appellate board to hear appeals from denials of access.

566 (4) Policies shall include reasonable times for responding to access requests consistent
567 with the provisions of Part 2 [~~of this chapter~~], Access to Records, fees, and reasonable time
568 limits for appeals.

569 (5) Upon request, the state archivist shall:

570 (a) assist with and advise concerning the establishment of a records management
571 program in the Legislature; and

572 (b) as required by the Legislature, provide program services similar to those available
573 to the executive branch of government, as provided in this chapter.