

1 **GOVERNMENT OPERATIONS COMMITTEE AMENDMENTS**

2 2018 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Wayne A. Harper**

5 House Sponsor: Jeremy A. Peterson

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies requirements related to reports given to the Government Operations
10 Interim Committee and repeals, or modifies provisions regarding, certain boards and
11 commissions.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ modifies the timing and format of reports required to be submitted to the
15 Government Operations Interim Committee by the:
- 16 • government records ombudsman;
 - 17 • Commission on Federalism;
 - 18 • Free Market Protection and Privatization Board; and
 - 19 • Federal Funds Commission;
- 20 ▶ repeals the Rural Development Legislative Liaison Committee;
- 21 ▶ repeals the Legislative Committee on Landfill Siting Disputes;
- 22 ▶ repeals the Government Procurement Private Proposal Program Committee and
23 related provisions;
- 24 ▶ repeals the Constitutional Revision Commission;
- 25 ▶ requires the Data Security Management Council to meet at least quarterly rather
26 than monthly; and
- 27 ▶ makes conforming changes.

28 **Money Appropriated in this Bill:**

29 None

30 **Other Special Clauses:**

31 None

32 **Utah Code Sections Affected:**

33 AMENDS:

- 34 **63A-12-111**, as last amended by Laws of Utah 2013, Chapter 278
- 35 **63C-4a-303**, as last amended by Laws of Utah 2014, Chapter 221
- 36 **63C-14-301**, as last amended by Laws of Utah 2015, Chapter 409
- 37 **63F-1-205**, as last amended by Laws of Utah 2017, Chapter 238
- 38 **63F-2-102**, as last amended by Laws of Utah 2017, Chapter 382
- 39 **63G-2-305**, as last amended by Laws of Utah 2017, Chapters 374, 382, and 415
- 40 **63G-6a-304**, as last amended by Laws of Utah 2015, Chapter 283
- 41 **63G-6a-305**, as last amended by Laws of Utah 2015, Chapter 283
- 42 **63I-4a-203**, as last amended by Laws of Utah 2016, Chapter 182

43 REPEALS:

- 44 **19-6-102.6**, as last amended by Laws of Utah 2012, Chapter 360
- 45 **36-25-101**, as enacted by Laws of Utah 2004, Chapter 73
- 46 **36-25-102**, as last amended by Laws of Utah 2014, Chapter 387
- 47 **36-25-103**, as enacted by Laws of Utah 2004, Chapter 73
- 48 **36-25-104**, as enacted by Laws of Utah 2004, Chapter 73
- 49 **63G-6a-711**, as last amended by Laws of Utah 2015, Chapter 283
- 50 **63I-3-101**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 51 **63I-3-102**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 52 **63I-3-201**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 53 **63I-3-202**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 54 **63I-3-203**, as last amended by Laws of Utah 2011, Chapter 384
- 55 **63I-3-204**, as last amended by Laws of Utah 2011, Chapter 384
- 56 **63I-3-205**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 57 **63I-3-206**, as last amended by Laws of Utah 2014, Chapter 387

- 58 **63I-3-207**, as last amended by Laws of Utah 2011, Chapter 384
- 59 **63N-13-201**, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 60 **63N-13-202**, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 61 **63N-13-203**, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 62 **63N-13-204**, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 63 **63N-13-205**, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 64 **63N-13-206**, as last amended by Laws of Utah 2016, Chapter 222
- 65 **63N-13-207**, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 66 **63N-13-208**, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 67 **63N-13-209**, as last amended by Laws of Utah 2016, Chapter 222
- 68 **63N-13-210**, as last amended by Laws of Utah 2016, Chapter 222
- 69 **63N-13-211**, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 70 **63N-13-212**, as renumbered and amended by Laws of Utah 2015, Chapter 283

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

73 Section 1. Section **63A-12-111** is amended to read:

74 **63A-12-111. Government records ombudsman.**

75 (1) (a) The director of the division shall appoint a government records ombudsman.

76 (b) The government records ombudsman may not be a member of the records
77 committee.

78 (2) The government records ombudsman shall:

79 (a) be familiar with the provisions of Title 63G, Chapter 2, Government Records
80 Access and Management Act;

81 (b) serve as a resource for a person who is making or responding to a records request or
82 filing an appeal relating to a records request;

83 (c) upon request, attempt to mediate disputes between requestors and responders; and

84 (d) on an annual basis, electronically transmit a written report to the Government
85 Operations Interim Committee on the work performed by the government records ombudsman

86 during the previous year.

87 (3) The government records ombudsman may not testify, or be compelled to testify,
88 before the records committee, another administrative body, or a court regarding a matter that
89 the government records ombudsman provided services in relation to under this section.

90 Section 2. Section **63C-4a-303** is amended to read:

91 **63C-4a-303. Duties of Commission on Federalism.**

92 (1) In accordance with Section **63C-4a-304**, the commission may evaluate a federal
93 law:

- 94 (a) as agreed by a majority of the commission; or
- 95 (b) submitted to the commission by a council member.

96 (2) The commission may request information regarding a federal law under evaluation
97 from a United States senator or representative elected from the state.

98 (3) If the commission finds that a federal law is not authorized by the United States
99 Constitution or violates the principle of federalism as described in Subsection **63C-4a-304(2)**, a
100 commission cochair may:

- 101 (a) request from a United States senator or representative elected from the state:
 - 102 (i) information about the federal law; or
 - 103 (ii) assistance in communicating with a federal governmental entity regarding the
104 federal law;
- 105 (b) (i) give written notice of an evaluation made under Subsection (1) to the federal
106 governmental entity responsible for adopting or administering the federal law; and
 - 107 (ii) request a response by a specific date to the evaluation from the federal
108 governmental entity; and
- 109 (c) request a meeting, conducted in person or by electronic means, with the federal
110 governmental entity, a representative from another state, or a United States Senator or
111 Representative elected from the state to discuss the evaluation of federal law and any possible
112 remedy.

113 (4) The commission may recommend to the governor that the governor call a special

114 session of the Legislature to give the Legislature an opportunity to respond to the commission's
115 evaluation of a federal law.

116 (5) A commission cochair may coordinate the evaluation of and response to federal law
117 with another state as provided in Section [63C-4a-305](#).

118 (6) [~~On May 20 and October 20 of each~~] Each year, the commission shall submit a
119 report by electronic mail to the Legislative Management Committee and the Government
120 Operations Interim Committee that summarizes:

121 (a) action taken by the commission in accordance with this section; and
122 (b) action taken by, or communication received from, any of the following in response
123 to a request or inquiry made, or other action taken, by the commission:

- 124 (i) a United States senator or representative elected from the state;
- 125 (ii) a representative of another state; or
- 126 (iii) a federal entity, official, or employee.

127 (7) The commission shall keep a current list on the Legislature's website of:

- 128 (a) a federal law that the commission evaluates under Subsection (1);
- 129 (b) an action taken by a cochair of the commission under Subsection (3);
- 130 (c) any coordination undertaken with another state under Section [63C-4a-305](#); and
- 131 (d) any response received from a federal government entity that was requested under

132 Subsection (3).

133 (8) The commission shall develop curriculum for a seminar on the principles of
134 federalism. The curriculum shall be available to the general public and include:

- 135 (a) fundamental principles of federalism;
- 136 (b) the sovereignty, supremacy, and jurisdiction of the individual states, including their
137 police powers;

138 (c) the history and practical implementation of the Tenth Amendment to the United
139 States Constitution;

140 (d) the authority and limits on the authority of the federal government as found in the
141 United States Constitution;

- 142 (e) the relationship between the state and federal governments;
- 143 (f) methods of evaluating a federal law in the context of the principles of federalism;
- 144 (g) how and when challenges should be made to a federal law or regulation on the basis
145 of federalism;
- 146 (h) the separate and independent powers of the state that serve as a check on the federal
147 government;
- 148 (i) first amendment rights and freedoms contained therein; and
- 149 (j) any other issues relating to federalism the commission considers necessary.

150 (9) The commission may apply for and receive grants, and receive private donations to
151 assist in funding the creation, enhancement, and dissemination of the curriculum.

152 Section 3. Section **63C-14-301** is amended to read:

153 **63C-14-301. Commission duties.**

154 (1) Until November 30, 2019, the commission shall:

155 (a) study and assess:

- 156 (i) the financial stability of the federal government;
- 157 (ii) the level of dependency that the state and local governments have on the receipt of
158 federal funds;
- 159 (iii) the risk that the state and local governments in the state will experience a reduction
160 in the amount or value of federal funds they receive, in both the near and distant future;
- 161 (iv) the likely and potential impact on the state and its citizens from a reduction in the
162 amount or value of federal funds received by the state and by local governments in the state, in
163 both the near and distant future; and
- 164 (v) the likely and potential national impact from a reduction in the amount or value of
165 federal funds paid to the states, in both the near and distant future; and

166 (b) make recommendations to the governor and Legislature on methods to:

- 167 (i) avoid or minimize the risk of a reduction in the amount or value of federal funds by
168 the state and by local governments in the state;
- 169 (ii) reduce the dependency of the state and of local governments in the state on federal

170 funds; and

171 (iii) prepare for and respond to a reduction in the amount or value of federal funds by
172 the state and by local governments in the state.

173 (2) After November 30, 2019, the commission shall study, assess, and provide
174 recommendations on any federal issue that the governor, the Legislature through a joint
175 resolution of the Legislature, or the Legislative Management Committee directs the
176 commission to study, assess, and make recommendations on.

177 (3) [~~On or before November 30 of each year, the~~] The commission shall present a
178 report to the Government Operations Interim Committee of the Legislature each year on the
179 commission's findings and recommendations.

180 Section 4. Section **63F-1-205** is amended to read:

181 **63F-1-205. Approval of acquisitions of information technology.**

182 (1) (a) [~~Except as provided in Title 63N, Chapter 13, Part 2, Government Procurement~~
183 ~~Private Proposal Program, in~~] In accordance with Subsection (2), the chief information officer
184 shall approve the acquisition by an executive branch agency of:

- 185 (i) information technology equipment;
- 186 (ii) telecommunications equipment;
- 187 (iii) software;
- 188 (iv) services related to the items listed in Subsections (1)(a)(i) through (iii); and
- 189 (v) data acquisition.

190 (b) The chief information officer may negotiate the purchase, lease, or rental of private
191 or public information technology or telecommunication services or facilities in accordance with
192 this section.

193 (c) Where practical, efficient, and economically beneficial, the chief information
194 officer shall use existing private and public information technology or telecommunication
195 resources.

196 (d) Notwithstanding another provision of this section, an acquisition authorized by this
197 section shall comply with rules made by the applicable rulemaking authority under Title 63G,

198 Chapter 6a, Utah Procurement Code.

199 (2) Before negotiating a purchase, lease, or rental under Subsection (1) for an amount
200 that exceeds the value established by the chief information officer by rule in accordance with
201 Section 63F-1-206, the chief information officer shall:

202 (a) conduct an analysis of the needs of executive branch agencies and subscribers of
203 services and the ability of the proposed information technology or telecommunications services
204 or supplies to meet those needs; and

205 (b) for purchases, leases, or rentals not covered by an existing statewide contract,
206 certify in writing to the chief procurement officer in the Division of Purchasing and General
207 Services that:

208 (i) the analysis required in Subsection (2)(a) was completed; and

209 (ii) based on the analysis, the proposed purchase, lease, rental, or master contract of
210 services, products, or supplies is practical, efficient, and economically beneficial to the state
211 and the executive branch agency or subscriber of services.

212 (3) In approving an acquisition described in Subsections (1) and (2), the chief
213 information officer shall:

214 (a) establish by administrative rule, in accordance with Section 63F-1-206, standards
215 under which an agency must obtain approval from the chief information officer before
216 acquiring the items listed in Subsections (1) and (2);

217 (b) for those acquisitions requiring approval, determine whether the acquisition is in
218 compliance with:

219 (i) the executive branch strategic plan;

220 (ii) the applicable agency information technology plan;

221 (iii) the budget for the executive branch agency or department as adopted by the
222 Legislature;

223 (iv) Title 63G, Chapter 6a, Utah Procurement Code; and

224 (v) the information technology accessibility standards described in Section 63F-1-210;

225 and

226 (c) in accordance with Section 63F-1-207, require coordination of acquisitions between
227 two or more executive branch agencies if it is in the best interests of the state.

228 (4) Each executive branch agency shall provide the chief information officer with
229 complete access to all information technology records, documents, and reports:

230 (a) at the request of the chief information officer; and

231 (b) related to the executive branch agency's acquisition of any item listed in Subsection
232 (1).

233 (5) (a) In accordance with administrative rules established by the department under
234 Section 63F-1-206, an executive branch agency and the department may not initiate a new
235 technology project unless the technology project is described in a formal project plan and a
236 business case analysis is approved by the chief information officer and the highest ranking
237 executive branch agency official.

238 (b) The project plan and business case analysis required by this Subsection (5) shall
239 include:

240 (i) a statement of work to be done and existing work to be modified or displaced;

241 (ii) total cost of system development and conversion effort, including system analysis
242 and programming costs, establishment of master files, testing, documentation, special
243 equipment cost and all other costs, including overhead;

244 (iii) savings or added operating costs that will result after conversion;

245 (iv) other advantages or reasons that justify the work;

246 (v) source of funding of the work, including ongoing costs;

247 (vi) consistency with budget submissions and planning components of budgets; and

248 (vii) whether the work is within the scope of projects or initiatives envisioned when the
249 current fiscal year budget was approved.

250 (c) The chief information officer shall determine the required form of the project plan
251 and business case analysis described in this Subsection (5).

252 (6) The chief information officer and the Division of Purchasing and General Services
253 within the Department of Administrative Services shall work cooperatively to establish

254 procedures under which the chief information officer shall monitor and approve acquisitions as
255 provided in this section.

256 Section 5. Section **63F-2-102** is amended to read:

257 **63F-2-102. Data Security Management Council -- Membership -- Duties.**

258 (1) There is created the Data Security Management Council composed of nine
259 members as follows:

260 (a) the chief information officer appointed under Section **63F-1-201**, or the chief
261 information officer's designee;

262 (b) one individual appointed by the governor;

263 (c) one individual appointed by the speaker of the House of Representatives and the
264 president of the Senate from the Legislative Information Technology Steering Committee; and

265 (d) the highest ranking information technology official, or the highest ranking
266 information technology official's designee, from each of:

267 (i) the Judicial Council;

268 (ii) the State Board of Regents;

269 (iii) the State Board of Education;

270 (iv) the Utah System of Technical Colleges Board of Trustees;

271 (v) the State Tax Commission; and

272 (vi) the Office of the Attorney General.

273 (2) The council shall elect a chair of the council by majority vote.

274 (3) (a) A majority of the members of the council constitutes a quorum.

275 (b) Action by a majority of a quorum of the council constitutes an action of the council.

276 (4) The Department of Technology Services shall provide staff to the council.

277 (5) The council shall meet [~~monthly~~] quarterly, or as often as necessary, to:

278 (a) review existing state government data security policies;

279 (b) assess ongoing risks to state government information technology;

280 (c) create a method to notify state and local government entities of new risks;

281 (d) coordinate data breach simulation exercises with state and local government

282 entities; and

283 (e) develop data security best practice recommendations for state government that
284 include recommendations regarding:

285 (i) hiring and training a chief information security officer for each government entity;

286 (ii) continuous risk monitoring;

287 (iii) password management;

288 (iv) using the latest technology to identify and respond to vulnerabilities;

289 (v) protecting data in new and old systems; and

290 (vi) best procurement practices.

291 (6) A member who is not a member of the Legislature may not receive compensation
292 or benefits for the member's service but may receive per diem and travel expenses as provided
293 in:

294 (a) Section 63A-3-106;

295 (b) Section 63A-3-107; and

296 (c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

297 Section 6. Section 63G-2-305 is amended to read:

298 **63G-2-305. Protected records.**

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

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

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

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

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

309 (c) the person submitting the information has provided the governmental entity with

310 the information specified in Section [63G-2-309](#);

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

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

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

320 (6) records, the disclosure of which would impair governmental procurement
321 proceedings or give an unfair advantage to any person proposing to enter into a contract or
322 agreement with a governmental entity, except, subject to Subsections (1) and (2), that this
323 Subsection (6) does not restrict the right of a person to have access to, after the contract or
324 grant has been awarded and signed by all parties, a bid, proposal, application, or other
325 information submitted to or by a governmental entity in response to:

- 326 (a) an invitation for bids;
- 327 (b) a request for proposals;
- 328 (c) a request for quotes;
- 329 (d) a grant; or
- 330 (e) other similar document;

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

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

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

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

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

343 (a) public interest in obtaining access to the information is greater than or equal to the
344 governmental entity's need to acquire the property on the best terms possible;

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

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

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

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

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

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

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

365 (10) records created or maintained for civil, criminal, or administrative enforcement

366 purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if
367 release of the records:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

409 (A) members of a legislative body;

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

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

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

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

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

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

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

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

427 (a) collective bargaining; or

428 (b) imminent or pending litigation;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

477 (a) the donor requests anonymity in writing;

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

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

485 (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and
486 73-18-13;

487 (39) a notification of workers' compensation insurance coverage described in Section
488 34A-2-205;

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

492 (i) unpublished lecture notes;

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

494 (A) relating to research; and

495 (B) of:

496 (I) the institution within the state system of higher education defined in Section
497 53B-1-102; or

498 (II) a sponsor of sponsored research;

499 (iii) unpublished manuscripts;

500 (iv) creative works in process;

501 (v) scholarly correspondence; and

502 (vi) confidential information contained in research proposals;

503 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public
504 information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

505 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;

506 (41) (a) records in the custody or control of the Office of Legislative Auditor General
507 that would reveal the name of a particular legislator who requests a legislative audit prior to the
508 date that audit is completed and made public; and

509 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the
510 Office of the Legislative Auditor General is a public document unless the legislator asks that
511 the records in the custody or control of the Office of Legislative Auditor General that would
512 reveal the name of a particular legislator who requests a legislative audit be maintained as
513 protected records until the audit is completed and made public;

514 (42) records that provide detail as to the location of an explosive, including a map or
515 other document that indicates the location of:

516 (a) a production facility; or

517 (b) a magazine;

518 (43) information:

519 (a) contained in the statewide database of the Division of Aging and Adult Services
520 created by Section [62A-3-311.1](#); or

521 (b) received or maintained in relation to the Identity Theft Reporting Information
522 System (IRIS) established under Section [67-5-22](#);

523 (44) information contained in the Management Information System and Licensing
524 Information System described in Title 62A, Chapter 4a, Child and Family Services;

525 (45) information regarding National Guard operations or activities in support of the
526 National Guard's federal mission;

527 (46) records provided by any pawn or secondhand business to a law enforcement
528 agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and
529 Secondhand Merchandise Transaction Information Act;

530 (47) information regarding food security, risk, and vulnerability assessments performed
531 by the Department of Agriculture and Food;

532 (48) except to the extent that the record is exempt from this chapter pursuant to Section
533 [63G-2-106](#), records related to an emergency plan or program, a copy of which is provided to or

534 prepared or maintained by the Division of Emergency Management, and the disclosure of
535 which would jeopardize:

536 (a) the safety of the general public; or

537 (b) the security of:

538 (i) governmental property;

539 (ii) governmental programs; or

540 (iii) the property of a private person who provides the Division of Emergency
541 Management information;

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

546 (50) as provided in Section [26-39-501](#):

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

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

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

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

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

559 (i) the nature of the law, ordinance, rule, or order; and

560 (ii) the individual complying with the law, ordinance, rule, or order;

561 (52) the name, home address, work addresses, and telephone numbers of an individual

562 that is engaged in, or that provides goods or services for, medical or scientific research that is:

563 (a) conducted within the state system of higher education, as defined in Section
564 [53B-1-102](#); and

565 (b) conducted using animals;

566 [~~(53)~~ an initial proposal under Title 63N, Chapter 13, Part 2, Government Procurement
567 Private Proposal Program, to the extent not made public by rules made under that chapter;]

568 [~~(54)~~ (53) in accordance with Section [78A-12-203](#), any record of the Judicial
569 Performance Evaluation Commission concerning an individual commissioner's vote on
570 whether or not to recommend that the voters retain a judge including information disclosed
571 under Subsection [78A-12-203\(5\)\(e\)](#);

572 [~~(55)~~ (54) information collected and a report prepared by the Judicial Performance
573 Evaluation Commission concerning a judge, unless Section [20A-7-702](#) or Title 78A, Chapter
574 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public,
575 the information or report;

576 [~~(56)~~ (55) records contained in the Management Information System created in
577 Section [62A-4a-1003](#);

578 [~~(57)~~ (56) records provided or received by the Public Lands Policy Coordinating
579 Office in furtherance of any contract or other agreement made in accordance with Section
580 [63J-4-603](#);

581 [~~(58)~~ (57) information requested by and provided to the 911 Division under Section
582 [63H-7a-302](#);

583 [~~(59)~~ (58) in accordance with Section [73-10-33](#):

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

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

588 [~~(60)~~ (59) the following records in the custody or control of the Office of Inspector
589 General of Medicaid Services, created in Section [63A-13-201](#):

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

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

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

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

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

609 ~~[(61)]~~ (60) records that reveal methods used by the Office of Inspector General of
610 Medicaid Services, the fraud unit, or the Department of Health, to discover Medicaid fraud,
611 waste, or abuse;

612 ~~[(62)]~~ (61) information provided to the Department of Health or the Division of
613 Occupational and Professional Licensing under Subsection 58-68-304(3) or (4);

614 ~~[(63)]~~ (62) a record described in Section 63G-12-210;

615 ~~[(64)]~~ (63) captured plate data that is obtained through an automatic license plate
616 reader system used by a governmental entity as authorized in Section 41-6a-2003;

617 ~~[(65)]~~ (64) any record in the custody of the Utah Office for Victims of Crime relating

618 to a victim, including:

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

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

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

624 ~~[(66)]~~ (65) an audio or video recording created by a body-worn camera, as that term is
625 defined in Section 77-7a-103, that records sound or images inside a hospital or health care
626 facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care
627 provider, as that term is defined in Section 78B-3-403, or inside a human service program as
628 that term is defined in Subsection 62A-2-101(19)(a)(vi), except for recordings that:

629 (a) depict the commission of an alleged crime;

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

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

634 (d) contain an officer involved critical incident as defined in Subsection
635 76-2-408(1)(d); or

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

638 ~~[(67)]~~ (66) a record pertaining to the search process for a president of an institution of
639 higher education described in Section 53B-2-102, except for application materials for a
640 publicly announced finalist.

641 Section 7. Section 63G-6a-304 is amended to read:

642 **63G-6a-304. Delegation of authority.**

643 ~~[(1)]~~ In accordance with rules made by the board, the chief procurement officer may
644 delegate authority to designees or to any department, agency, or official.

645 ~~[(2) For a procurement under Title 63N, Chapter 13, Part 2, Government Procurement~~

646 Private Proposal Program, any delegation by the chief procurement officer under this section
647 shall be made to the Governor's Office of Economic Development.]

648 Section 8. Section **63G-6a-305** is amended to read:

649 **63G-6a-305. Duty of chief procurement officer in maintaining specifications.**

650 (1) The chief procurement officer may prepare, issue, revise, maintain, and monitor the
651 use of specifications for each procurement over which the chief procurement officer has
652 authority.

653 (2) The chief procurement officer shall obtain expert advice and assistance from
654 personnel of procurement units in the development of specifications and may delegate in
655 writing to a procurement unit the authority to prepare and utilize its own specifications.

656 [~~(3) For a procurement under Title 63N, Chapter 13, Part 2, Government Procurement
657 Private Proposal Program, any delegation by the chief procurement officer under this section
658 shall be made to the Governor's Office of Economic Development.]~~

659 Section 9. Section **63I-4a-203** is amended to read:

660 **63I-4a-203. Free Market Protection and Privatization Board -- Duties.**

661 (1) The board shall:

662 (a) determine whether an activity provided by an agency could be privatized to provide
663 the same types and quality of a good or service that would result in cost savings;

664 (b) review privatization of an activity at the request of:

665 (i) an agency; or

666 (ii) a private enterprise;

667 (c) review issues concerning agency competition with one or more private enterprises

668 to determine:

669 (i) whether privatization:

670 (A) would be feasible;

671 (B) would result in cost savings; and

672 (C) would result in equal or better quality of a good or service; and

673 (ii) ways to eliminate any unfair competition with a private enterprise;

674 (d) recommend privatization to an agency if a proposed privatization is demonstrated
675 to provide a more cost efficient and effective manner of providing a good or service, taking
676 into account:

- 677 (i) the scope of providing the good or service;
- 678 (ii) whether cost savings will be realized;
- 679 (iii) whether quality will be improved;
- 680 (iv) the impact on risk management;
- 681 (v) the impact on timeliness;
- 682 (vi) the ability to accommodate fluctuating demand;
- 683 (vii) the ability to access outside expertise;
- 684 (viii) the impact on oversight;
- 685 (ix) the ability to develop sound policy and implement best practices; and
- 686 (x) legal and practical impediments to privatization;

687 (e) comply with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in making
688 rules establishing privatization standards, procedures, and requirements;

689 (f) in fulfilling the duties described in this Subsection (1), consult with, maintain
690 communication with, and access information from:

- 691 (i) other entities promoting privatization; and
- 692 (ii) managers and employees in the public sector;
- 693 (g) comply with Part 3, Commercial Activities Inventory and Review; and
- 694 (h) (i) prepare an annual report [~~for each calendar year~~] that contains:
 - 695 (A) information about the board's activities;
 - 696 (B) recommendations on privatizing an activity provided by an agency; and
 - 697 (C) the status of the inventory created under Part 3, Commercial Activities Inventory
698 and Review; and

699 (ii) each year, electronically submit the [~~annual~~] report described in Subsection
700 (1)(h)(i) to the [~~Legislature~~] Government Operations Interim Committee and the governor [~~by~~
701 ~~no later than January 15 immediately following the calendar year for which the report is made;~~

702 and].

703 [~~(iii) submit, before November 1, an annual written report to the Government~~
704 ~~Operations Interim Committee.~~]

705 (2) (a) The board may, using the criteria described in Subsection (1), consider whether
706 to recommend privatization of an activity provided by an agency or a local entity:

707 (i) on the board's own initiative;

708 (ii) upon request by an agency or a local entity;

709 (iii) in response to a complaint that an agency or a local entity is engaging in unfair
710 competition with a private enterprise; or

711 (iv) in light of a proposal made by any person, regardless of whether the proposal was
712 solicited.

713 (b) The board may, using the criteria described in Subsection (1), consider whether to
714 recommend privatization of an activity provided by an entity that is an exempted agency under
715 Subsection [63I-4a-102\(2\)\(b\)](#) if the entity requests that the board review privatization of the
716 activity provided by the entity.

717 (3) In addition to filing a copy of recommendations for privatization with an agency
718 head, the board shall file a copy of its recommendations for privatization with:

719 (a) the governor's office; and

720 (b) the Office of Legislative Fiscal Analyst for submission to the relevant legislative
721 appropriation subcommittee.

722 (4) (a) The board may appoint advisory groups to conduct studies, research, or
723 analyses, and make reports and recommendations with respect to a matter within the
724 jurisdiction of the board.

725 (b) At least one member of the board shall serve on each advisory group.

726 (5) (a) Subject to Subsection (5)(b), this chapter does not preclude an agency from
727 privatizing the provision of a good or service independent of the board.

728 (b) If an agency privatizes the provision of a good or service, the agency shall include
729 as part of the contract that privatizes the provision of the good or service that any contractor

730 assumes all liability to provide the good or service.

731 Section 10. **Repealer.**

732 This bill repeals:

733 Section **19-6-102.6**, **Legislative participation in landfill siting disputes.**

734 Section **36-25-101**, **Title.**

735 Section **36-25-102**, **Rural Development Legislative Liaison Committee -- Creation**

736 **-- Membership -- Chairs -- Salary -- Expenses.**

737 Section **36-25-103**, **Duties.**

738 Section **36-25-104**, **Staff support.**

739 Section **63G-6a-711**, **Procurement for submitted proposal.**

740 Section **63I-3-101**, **Title.**

741 Section **63I-3-102**, **Definitions.**

742 Section **63I-3-201**, **Creation -- Members -- Appointment -- Qualifications -- Term**

743 **of office -- Maximum length of service.**

744 Section **63I-3-202**, **Vacancies -- Person filling a vacancy begins serving new term.**

745 Section **63I-3-203**, **Duties.**

746 Section **63I-3-204**, **The commission may invite testimony.**

747 Section **63I-3-205**, **Public hearings -- Purpose.**

748 Section **63I-3-206**, **Per diem and travel expenses of members.**

749 Section **63I-3-207**, **Appointment of staff.**

750 Section **63N-13-201**, **Title.**

751 Section **63N-13-202**, **Definitions.**

752 Section **63N-13-203**, **Government Procurement Private Proposal Program --**

753 **Proposals -- Rulemaking.**

754 Section **63N-13-204**, **Committee for reviewing proposals -- Appointment --**

755 **Accepting or rejecting a proposal.**

756 Section **63N-13-205**, **Initial proposal -- Requirements.**

757 Section **63N-13-206**, **Review of initial proposal -- Affected department review.**

- 758 Section **63N-13-207**, **Acceptance of initial proposal -- Obtaining detailed proposals.**
- 759 Section **63N-13-208**, **Detailed proposal -- Requirements -- Cooperation of affected**
- 760 **department.**
- 761 Section **63N-13-209**, **Receipt of detailed proposals -- Economic feasibility report --**
- 762 **Acceptance of a detailed proposal.**
- 763 Section **63N-13-210**, **Project agreement.**
- 764 Section **63N-13-211**, **Advisory committee.**
- 765 Section **63N-13-212**, **Private Proposal Expendable Special Revenue Fund -- Fees.**