

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

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7   **LONG TITLE**

8   **Committee Note:**

9                   The Government Operations Interim Committee recommended this bill.

10 **General Description:**

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

14 **Highlighted Provisions:**

15                   This bill:

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





28 than monthly; and

29       ▶ makes conforming changes.

30 **Money Appropriated in this Bill:**

31       None

32 **Other Special Clauses:**

33       None

34 **Utah Code Sections Affected:**

35 AMENDS:

36       **63A-12-111**, as last amended by Laws of Utah 2013, Chapter 278

37       **63C-4a-303**, as last amended by Laws of Utah 2014, Chapter 221

38       **63C-14-301**, as last amended by Laws of Utah 2015, Chapter 409

39       **63F-1-205**, as last amended by Laws of Utah 2017, Chapter 238

40       **63F-2-102**, as last amended by Laws of Utah 2017, Chapter 382

41       **63G-2-305**, as last amended by Laws of Utah 2017, Chapters 374, 382, and 415

42       **63G-6a-304**, as last amended by Laws of Utah 2015, Chapter 283

43       **63G-6a-305**, as last amended by Laws of Utah 2015, Chapter 283

44       **63I-4a-203**, as last amended by Laws of Utah 2016, Chapter 182

45 REPEALS:

46       **19-6-102.6**, as last amended by Laws of Utah 2012, Chapter 360

47       **36-25-101**, as enacted by Laws of Utah 2004, Chapter 73

48       **36-25-102**, as last amended by Laws of Utah 2014, Chapter 387

49       **36-25-103**, as enacted by Laws of Utah 2004, Chapter 73

50       **36-25-104**, as enacted by Laws of Utah 2004, Chapter 73

51       **63G-6a-711**, as last amended by Laws of Utah 2015, Chapter 283

52       **63I-3-101**, as renumbered and amended by Laws of Utah 2008, Chapter 382

53       **63I-3-102**, as renumbered and amended by Laws of Utah 2008, Chapter 382

54       **63I-3-201**, as renumbered and amended by Laws of Utah 2008, Chapter 382

55       **63I-3-202**, as renumbered and amended by Laws of Utah 2008, Chapter 382

56       **63I-3-203**, as last amended by Laws of Utah 2011, Chapter 384

57       **63I-3-204**, as last amended by Laws of Utah 2011, Chapter 384

58       **63I-3-205**, as renumbered and amended by Laws of Utah 2008, Chapter 382

- 59            **63I-3-206**, as last amended by Laws of Utah 2014, Chapter 387
- 60            **63I-3-207**, as last amended by Laws of Utah 2011, Chapter 384
- 61            **63N-13-201**, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 62            **63N-13-202**, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 63            **63N-13-203**, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 64            **63N-13-204**, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 65            **63N-13-205**, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 66            **63N-13-206**, as last amended by Laws of Utah 2016, Chapter 222
- 67            **63N-13-207**, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 68            **63N-13-208**, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 69            **63N-13-209**, as last amended by Laws of Utah 2016, Chapter 222
- 70            **63N-13-210**, as last amended by Laws of Utah 2016, Chapter 222
- 71            **63N-13-211**, as renumbered and amended by Laws of Utah 2015, Chapter 283
- 72            **63N-13-212**, as renumbered and amended by Laws of Utah 2015, Chapter 283

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

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

76            **63A-12-111. Government records ombudsman.**

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

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

80            (2) The government records ombudsman shall:

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

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

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

86            (d) on an annual basis, electronically transmit a written report to the Government  
87 Operations Interim Committee on the work performed by the government records ombudsman  
88 during the previous year.

89            (3) The government records ombudsman may not testify, or be compelled to testify,

90 before the records committee, another administrative body, or a court regarding a matter that  
91 the government records ombudsman provided services in relation to under this section.

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

93 **63C-4a-303. Duties of Commission on Federalism.**

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

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

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

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

103 (a) request from a United States senator or representative elected from the state:

- 104 (i) information about the federal law; or
- 105 (ii) assistance in communicating with a federal governmental entity regarding the  
106 federal law;

107 (b) (i) give written notice of an evaluation made under Subsection (1) to the federal  
108 governmental entity responsible for adopting or administering the federal law; and

109 (ii) request a response by a specific date to the evaluation from the federal  
110 governmental entity; and

111 (c) request a meeting, conducted in person or by electronic means, with the federal  
112 governmental entity, a representative from another state, or a United States Senator or  
113 Representative elected from the state to discuss the evaluation of federal law and any possible  
114 remedy.

115 (4) The commission may recommend to the governor that the governor call a special  
116 session of the Legislature to give the Legislature an opportunity to respond to the commission's  
117 evaluation of a federal law.

118 (5) A commission cochair may coordinate the evaluation of and response to federal law  
119 with another state as provided in Section **63C-4a-305**.

120 (6) [~~On May 20 and October 20 of each~~] Each year, the commission shall submit a

121 report by electronic mail to the Legislative Management Committee and the Government  
122 Operations Interim Committee that summarizes:

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

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

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

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

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

137 (a) fundamental principles of federalism;  
138 (b) the sovereignty, supremacy, and jurisdiction of the individual states, including their  
139 police powers;  
140 (c) the history and practical implementation of the Tenth Amendment to the United  
141 States Constitution;  
142 (d) the authority and limits on the authority of the federal government as found in the  
143 United States Constitution;  
144 (e) the relationship between the state and federal governments;  
145 (f) methods of evaluating a federal law in the context of the principles of federalism;  
146 (g) how and when challenges should be made to a federal law or regulation on the basis  
147 of federalism;  
148 (h) the separate and independent powers of the state that serve as a check on the federal  
149 government;  
150 (i) first amendment rights and freedoms contained therein; and  
151 (j) any other issues relating to federalism the commission considers necessary.

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

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

155 **63C-14-301. Commission duties.**

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

157 (a) study and assess:

158 (i) the financial stability of the federal government;

159 (ii) the level of dependency that the state and local governments have on the receipt of  
160 federal funds;

161 (iii) the risk that the state and local governments in the state will experience a reduction  
162 in the amount or value of federal funds they receive, in both the near and distant future;

163 (iv) the likely and potential impact on the state and its citizens from a reduction in the  
164 amount or value of federal funds received by the state and by local governments in the state, in  
165 both the near and distant future; and

166 (v) the likely and potential national impact from a reduction in the amount or value of  
167 federal funds paid to the states, in both the near and distant future; and

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

169 (i) avoid or minimize the risk of a reduction in the amount or value of federal funds by  
170 the state and by local governments in the state;

171 (ii) reduce the dependency of the state and of local governments in the state on federal  
172 funds; and

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

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

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

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

183 **63F-1-205. Approval of acquisitions of information technology.**

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

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

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

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

198 (d) Notwithstanding another provision of this section, an acquisition authorized by this  
199 section shall comply with rules made by the applicable rulemaking authority under Title 63G,  
200 Chapter 6a, Utah Procurement Code.

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

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

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

- 210 (i) the analysis required in Subsection (2)(a) was completed; and
- 211 (ii) based on the analysis, the proposed purchase, lease, rental, or master contract of  
212 services, products, or supplies is practical, efficient, and economically beneficial to the state  
213 and the executive branch agency or subscriber of services.



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

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

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

221 (i) the executive branch strategic plan;

222 (ii) the applicable agency information technology plan;

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

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

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

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

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

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

233 (b) related to the executive branch agency's acquisition of any item listed in Subsection  
234 (1).

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

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

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

243 (ii) total cost of system development and conversion effort, including system analysis  
244 and programming costs, establishment of master files, testing, documentation, special

245 equipment cost and all other costs, including overhead;  
246 (iii) savings or added operating costs that will result after conversion;  
247 (iv) other advantages or reasons that justify the work;  
248 (v) source of funding of the work, including ongoing costs;  
249 (vi) consistency with budget submissions and planning components of budgets; and  
250 (vii) whether the work is within the scope of projects or initiatives envisioned when the  
251 current fiscal year budget was approved.

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

254 (6) The chief information officer and the Division of Purchasing and General Services  
255 within the Department of Administrative Services shall work cooperatively to establish  
256 procedures under which the chief information officer shall monitor and approve acquisitions as  
257 provided in this section.

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

259 **63F-2-102. Data Security Management Council -- Membership -- Duties.**

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

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

264 (b) one individual appointed by the governor;

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

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

269 (i) the Judicial Council;

270 (ii) the State Board of Regents;

271 (iii) the State Board of Education;

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

273 (v) the State Tax Commission; and

274 (vi) the Office of the Attorney General.

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

- 276 (3) (a) A majority of the members of the council constitutes a quorum.
- 277 (b) Action by a majority of a quorum of the council constitutes an action of the council.
- 278 (4) The Department of Technology Services shall provide staff to the council.
- 279 (5) The council shall meet [~~monthly~~] quarterly, or as often as necessary, to:
- 280 (a) review existing state government data security policies;
- 281 (b) assess ongoing risks to state government information technology;
- 282 (c) create a method to notify state and local government entities of new risks;
- 283 (d) coordinate data breach simulation exercises with state and local government
- 284 entities; and
- 285 (e) develop data security best practice recommendations for state government that
- 286 include recommendations regarding:
- 287 (i) hiring and training a chief information security officer for each government entity;
- 288 (ii) continuous risk monitoring;
- 289 (iii) password management;
- 290 (iv) using the latest technology to identify and respond to vulnerabilities;
- 291 (v) protecting data in new and old systems; and
- 292 (vi) best procurement practices.
- 293 (6) A member who is not a member of the Legislature may not receive compensation
- 294 or benefits for the member's service but may receive per diem and travel expenses as provided
- 295 in:
- 296 (a) Section [63A-3-106](#);
- 297 (b) Section [63A-3-107](#); and
- 298 (c) rules made by the Division of Finance under Sections [63A-3-106](#) and [63A-3-107](#).
- 299 Section 6. Section **63G-2-305** is amended to read:
- 300 **63G-2-305. Protected records.**
- 301 The following records are protected if properly classified by a governmental entity:
- 302 (1) trade secrets as defined in Section [13-24-2](#) if the person submitting the trade secret
- 303 has provided the governmental entity with the information specified in Section [63G-2-309](#);
- 304 (2) commercial information or nonindividual financial information obtained from a
- 305 person if:
- 306 (a) disclosure of the information could reasonably be expected to result in unfair

307 competitive injury to the person submitting the information or would impair the ability of the  
308 governmental entity to obtain necessary information in the future;

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

311 (c) the person submitting the information has provided the governmental entity with  
312 the information specified in Section 63G-2-309;

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

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

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

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

328 (a) an invitation for bids;

329 (b) a request for proposals;

330 (c) a request for quotes;

331 (d) a grant; or

332 (e) other similar document;

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

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

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

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

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

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

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

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

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

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

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

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

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

367 (10) records created or maintained for civil, criminal, or administrative enforcement  
368 purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if

369 release of the records:

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

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

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

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

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

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

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

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

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

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

399 (16) records of a governmental audit agency relating to an ongoing or planned audit

400 until the final audit is released;

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

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

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

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

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

411 (A) members of a legislative body;

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

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

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

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

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

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

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

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

429 (a) collective bargaining; or

430 (b) imminent or pending litigation;

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

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

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

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

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

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

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

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

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

461 (33) records that would reveal the contents of settlement negotiations but not including



462 final settlements or empirical data to the extent that they are not otherwise exempt from  
463 disclosure;

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

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

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

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

479 (a) the donor requests anonymity in writing;

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

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

487 (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and  
488 73-18-13;

489 (39) a notification of workers' compensation insurance coverage described in Section  
490 34A-2-205;

491 (40) (a) the following records of an institution within the state system of higher  
492 education defined in Section 53B-1-102, which have been developed, discovered, disclosed to,

493 or received by or on behalf of faculty, staff, employees, or students of the institution:

494 (i) unpublished lecture notes;

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

496 (A) relating to research; and

497 (B) of:

498 (I) the institution within the state system of higher education defined in Section

499 [53B-1-102](#); or

500 (II) a sponsor of sponsored research;

501 (iii) unpublished manuscripts;

502 (iv) creative works in process;

503 (v) scholarly correspondence; and

504 (vi) confidential information contained in research proposals;

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

506 information required pursuant to Subsection [53B-16-302](#)(2)(a) or (b); and

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

508 (41) (a) records in the custody or control of the Office of Legislative Auditor General

509 that would reveal the name of a particular legislator who requests a legislative audit prior to the

510 date that audit is completed and made public; and

511 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the

512 Office of the Legislative Auditor General is a public document unless the legislator asks that

513 the records in the custody or control of the Office of Legislative Auditor General that would

514 reveal the name of a particular legislator who requests a legislative audit be maintained as

515 protected records until the audit is completed and made public;

516 (42) records that provide detail as to the location of an explosive, including a map or

517 other document that indicates the location of:

518 (a) a production facility; or

519 (b) a magazine;

520 (43) information:

521 (a) contained in the statewide database of the Division of Aging and Adult Services

522 created by Section [62A-3-311.1](#); or

523 (b) received or maintained in relation to the Identity Theft Reporting Information

524 System (IRIS) established under Section [67-5-22](#);

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

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

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

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

534 (48) except to the extent that the record is exempt from this chapter pursuant to Section  
535 [63G-2-106](#), records related to an emergency plan or program, a copy of which is provided to or  
536 prepared or maintained by the Division of Emergency Management, and the disclosure of  
537 which would jeopardize:

538 (a) the safety of the general public; or  
539 (b) the security of:

540 (i) governmental property;  
541 (ii) governmental programs; or  
542 (iii) the property of a private person who provides the Division of Emergency  
543 Management information;

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

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

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

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

554 (51) unless otherwise classified as public under Section [63G-2-301](#) and except as

555 provided under Section [41-1a-116](#), an individual's home address, home telephone number, or  
556 personal mobile phone number, if:

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

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

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

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

563 (52) the name, home address, work addresses, and telephone numbers of an individual  
564 that is engaged in, or that provides goods or services for, medical or scientific research that is:

565 (a) conducted within the state system of higher education, as defined in Section  
566 [53B-1-102](#); and

567 (b) conducted using animals;

568 [~~53~~] an initial proposal under Title 63N, Chapter 13, Part 2, Government Procurement  
569 Private Proposal Program, to the extent not made public by rules made under that chapter;]

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

574 [~~55~~] (54) information collected and a report prepared by the Judicial Performance  
575 Evaluation Commission concerning a judge, unless Section [20A-7-702](#) or Title 78A, Chapter  
576 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public,  
577 the information or report;

578 [~~56~~] (55) records contained in the Management Information System created in  
579 Section [62A-4a-1003](#);

580 [~~57~~] (56) records provided or received by the Public Lands Policy Coordinating  
581 Office in furtherance of any contract or other agreement made in accordance with Section  
582 [63J-4-603](#);

583 [~~58~~] (57) information requested by and provided to the 911 Division under Section  
584 [63H-7a-302](#);

585 [~~59~~] (58) in accordance with Section [73-10-33](#):

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

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

590 [~~(60)~~] (59) the following records in the custody or control of the Office of Inspector  
591 General of Medicaid Services, created in Section 63A-13-201:

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

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

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

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

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

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

614 [~~(62)~~] (61) information provided to the Department of Health or the Division of  
615 Occupational and Professional Licensing under Subsection 58-68-304(3) or (4);

616 [~~(63)~~] (62) a record described in Section 63G-12-210;

617 ~~[(64)]~~ (63) captured plate data that is obtained through an automatic license plate  
618 reader system used by a governmental entity as authorized in Section 41-6a-2003;

619 ~~[(65)]~~ (64) any record in the custody of the Utah Office for Victims of Crime relating  
620 to a victim, including:

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

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

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

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

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

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

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

636 (d) contain an officer involved critical incident as defined in Subsection

637 76-2-408(1)(d); or

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

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

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

644 **63G-6a-304. Delegation of authority.**

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

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

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

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

651 **63G-6a-305. Duty of chief procurement officer in maintaining specifications.**

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

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

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

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

662 **63I-4a-203. Free Market Protection and Privatization Board -- Duties.**

663 (1) The board shall:

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

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

667 (i) an agency; or

668 (ii) a private enterprise;

669 (c) review issues concerning agency competition with one or more private enterprises  
670 to determine:

671 (i) whether privatization:

672 (A) would be feasible;

673 (B) would result in cost savings; and

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

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

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

- 679 (i) the scope of providing the good or service;
- 680 (ii) whether cost savings will be realized;
- 681 (iii) whether quality will be improved;
- 682 (iv) the impact on risk management;
- 683 (v) the impact on timeliness;
- 684 (vi) the ability to accommodate fluctuating demand;
- 685 (vii) the ability to access outside expertise;
- 686 (viii) the impact on oversight;
- 687 (ix) the ability to develop sound policy and implement best practices; and
- 688 (x) legal and practical impediments to privatization;
- 689 (e) comply with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in making
- 690 rules establishing privatization standards, procedures, and requirements;
- 691 (f) in fulfilling the duties described in this Subsection (1), consult with, maintain
- 692 communication with, and access information from:
- 693 (i) other entities promoting privatization; and
- 694 (ii) managers and employees in the public sector;
- 695 (g) comply with Part 3, Commercial Activities Inventory and Review; and
- 696 (h) (i) prepare an annual report [~~for each calendar year~~] that contains:
- 697 (A) information about the board's activities;
- 698 (B) recommendations on privatizing an activity provided by an agency; and
- 699 (C) the status of the inventory created under Part 3, Commercial Activities Inventory
- 700 and Review; and
- 701 (ii) each year, electronically submit the [annual] report described in Subsection
- 702 (1)(h)(i) to the [Legislature] Government Operations Interim Committee and the governor [by
- 703 no later than January 15 immediately following the calendar year for which the report is made;
- 704 and].
- 705 [~~(iii) submit, before November 1, an annual written report to the Government~~
- 706 ~~Operations Interim Committee.]~~
- 707 (2) (a) The board may, using the criteria described in Subsection (1), consider whether
- 708 to recommend privatization of an activity provided by an agency or a local entity:
- 709 (i) on the board's own initiative;



710 (ii) upon request by an agency or a local entity;  
711 (iii) in response to a complaint that an agency or a local entity is engaging in unfair  
712 competition with a private enterprise; or  
713 (iv) in light of a proposal made by any person, regardless of whether the proposal was  
714 solicited.

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

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

721 (a) the governor's office; and

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

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

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

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

730 (b) If an agency privatizes the provision of a good or service, the agency shall include  
731 as part of the contract that privatizes the provision of the good or service that any contractor  
732 assumes all liability to provide the good or service.

733 **Section 10. Repealer.**

734 This bill repeals:

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

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

737 Section 36-25-102, **Rural Development Legislative Liaison Committee -- Creation**  
738 **-- Membership -- Chairs -- Salary -- Expenses.**

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

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

- 741 Section **63G-6a-711**, Procurement for submitted proposal.
- 742 Section **63I-3-101**, Title.
- 743 Section **63I-3-102**, Definitions.
- 744 Section **63I-3-201**, Creation -- Members -- Appointment -- Qualifications -- Term  
745 of office -- Maximum length of service.
- 746 Section **63I-3-202**, Vacancies -- Person filling a vacancy begins serving new term.
- 747 Section **63I-3-203**, Duties.
- 748 Section **63I-3-204**, The commission may invite testimony.
- 749 Section **63I-3-205**, Public hearings -- Purpose.
- 750 Section **63I-3-206**, Per diem and travel expenses of members.
- 751 Section **63I-3-207**, Appointment of staff.
- 752 Section **63N-13-201**, Title.
- 753 Section **63N-13-202**, Definitions.
- 754 Section **63N-13-203**, Government Procurement Private Proposal Program --  
755 Proposals -- Rulemaking.
- 756 Section **63N-13-204**, Committee for reviewing proposals -- Appointment --  
757 Accepting or rejecting a proposal.
- 758 Section **63N-13-205**, Initial proposal -- Requirements.
- 759 Section **63N-13-206**, Review of initial proposal -- Affected department review.
- 760 Section **63N-13-207**, Acceptance of initial proposal -- Obtaining detailed proposals.
- 761 Section **63N-13-208**, Detailed proposal -- Requirements -- Cooperation of affected  
762 department.
- 763 Section **63N-13-209**, Receipt of detailed proposals -- Economic feasibility report --  
764 Acceptance of a detailed proposal.
- 765 Section **63N-13-210**, Project agreement.
- 766 Section **63N-13-211**, Advisory committee.
- 767 Section **63N-13-212**, Private Proposal Expendable Special Revenue Fund -- Fees.