

Representative Francis D. Gibson proposes the following substitute bill:

PRIVACY PROTECTION AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Francis D. Gibson

Senate Sponsor: Kirk A. Cullimore

6	Cosponsors:	Brian S. King	Ryan D. Wilcox
7	Suzanne Harrison	Val L. Peterson	

LONG TITLE

General Description:

This bill creates positions to oversee privacy practices in state government.

Highlighted Provisions:

This bill:

- ▶ creates the government operations privacy officer, who will be appointed by the governor;
- ▶ authorizes the government operations privacy officer to review the data practices of state agencies;
- ▶ creates the Personal Privacy Oversight Commission, whose membership is appointed by the governor and the state auditor;
- ▶ directs the Personal Privacy Oversight Commission to establish guidelines and best practices with respect to certain government technology uses related to personal privacy and policies related to data security;
- ▶ authorizes the Personal Privacy Oversight Commission to review government technology uses related to personal privacy and policies related to data security;



- 25 ▶ directs the state auditor to appoint and oversee the state privacy officer;
- 26 ▶ authorizes the state privacy officer to review the data practices of certain
- 27 government entities; and
- 28 ▶ creates a reporting requirement for the operations privacy officer, the Personal
- 29 Privacy Oversight Committee, and the data privacy officer.

30 **Money Appropriated in this Bill:**

31 None

32 **Other Special Clauses:**

33 None

34 **Utah Code Sections Affected:**

35 AMENDS:

36 **67-3-1**, as last amended by Laws of Utah 2018, Chapters 200 and 256

37 ENACTS:

38 **63C-23-101**, Utah Code Annotated 1953

39 **63C-23-102**, Utah Code Annotated 1953

40 **63C-23-201**, Utah Code Annotated 1953

41 **63C-23-202**, Utah Code Annotated 1953

42 **67-1-17**, Utah Code Annotated 1953

43 **67-3-12**, Utah Code Annotated 1953



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

46 Section 1. Section **63C-23-101** is enacted to read:

47 **CHAPTER 23. PERSONAL PRIVACY OVERSIGHT COMMISSION**

48 **Part 1. General Provisions**

49 **63C-23-101. Title.**

50 This chapter is known as the "Personal Privacy Oversight Commission."

51 Section 2. Section **63C-23-102** is enacted to read:

52 **63C-23-102. Definitions.**

53 As used in this chapter:

54 (1) "Commission" means the Personal Privacy Oversight Commission created in

55 Section **63C-23-201**.

56 (2) (a) "Government entity" means the state, a county, a municipality, a higher
 57 education institution, a local district, a special service district, a school district, an independent
 58 entity, or any other political subdivision of the state or an administrative subunit of any
 59 political subdivision, including a law enforcement entity.

60 (b) "Government entity" includes an agent of an entity described in Subsection (2)(a).

61 (3) "Independent entity" means the same as that term is defined in Section 63E-1-102.

62 (4) (a) "Personal data" means any information relating to an identified or identifiable
 63 individual.

64 (b) "Personal data" includes personally identifying information.

65 (5) (a) "Privacy practice" means the acquisition, use, storage, or disposal of personal
 66 data.

67 (b) "Privacy practice" includes:

68 (i) a technology use related to personal data; and

69 (ii) policies related to the protection, storage, sharing, and retention of personal data.

70 Section 3. Section **63C-23-201** is enacted to read:

71 **Part 2. Personal Privacy Oversight Commission**

72 **63C-23-201. Personal Privacy Oversight Commission created.**

73 (1) There is created the Personal Privacy Oversight Commission.

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

75 (b) The governor shall appoint:

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

78 (ii) one member with experience in cybersecurity;

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

80 (iv) one member representing law enforcement;

81 (v) one member with experience in data privacy law; and

82 (vi) ~~Ŝ~~ → **from a list of two attorneys provided by the attorney general,** ←~~Ŝ~~ one member

82a with experience as a prosecutor and with experience in civil liberties

83 law.

84 (c) The state auditor shall appoint:

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

86 (ii) one member with experience in cybersecurity;

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

88 (iv) one member representing law enforcement;

89 (v) one member with experience in data privacy law; and

90 (vi) one member with experience in civil liberties law or policy and with specific
91 experience in identifying the disparate impacts of the use of a technology or a policy on
92 different populations.

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

95 (b) The initial appointments of members described in Subsections (2)(b)(i) through
96 (b)(iii) and (2)(c)(iv) through (c)(vi) shall be for two-year terms.

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

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

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

103 (5) The commission shall select officers from the commission's members as the
104 commission finds necessary.

105 (6) (a) A majority of the members of the commission is a quorum.

106 (b) The action of a majority of a quorum constitutes an action of the commission.

107 (7) A member may not receive compensation or benefits for the member's service but
108 may receive per diem and travel expenses incurred as a member of the commission at the rates
109 established by the Division of Finance under:

110 (a) Sections [63A-3-106](#) and [63A-3-107](#); and

111 (b) rules made by the Division of Finance in accordance with Section [63A-3-106](#) and
112 [63A-3-107](#).

113 (8) A member shall refrain from participating in a review of:

114 (a) an entity of which the member is an employee; or

115 (b) a technology in which the member has a financial interest.

116 (9) The state auditor shall provide staff and support to the commission.

117 (10) The commission shall meet up to seven times a year to accomplish the duties

118 described in Section [63C-23-202](#).

119 Section 4. Section **63C-23-202** is enacted to read:

120 **63C-23-202. Commission duties.**

121 (1) The commission shall:

122 (a) develop guiding standards and best practices with respect to government privacy
123 practices;

124 (b) develop educational and training materials that include information about:

125 (i) the privacy implications and civil liberties concerns of the privacy practices of
126 government entities;

127 (ii) best practices for government collection and retention policies regarding personal
128 data; and

129 (iii) best practices for government personal data security standards; and

130 (c) review the privacy implications and civil liberties concerns of government privacy
131 practices.

132 (2) The commission may:

133 (a) review specific government privacy practices as referred to the commission by the
134 government operations privacy officer described in Section [67-1-17](#) or the state privacy officer
135 described in Section [67-3-12](#); and

136 (b) develop recommendations for legislation regarding the guiding standards and best
137 practices the commission has developed in accordance with Subsection (1)(a).

138 (3) Annually, on or before October 1, the commission shall report to the Judiciary
139 Interim Committee:

140 (a) the results of any reviews the commission has conducted;

141 (b) the guiding standards and best practices described in Subsection (1)(a); and

142 (c) any recommendations for legislation the commission has developed in accordance
143 with Subsection (2)(b).

144 Section 5. Section **67-1-17** is enacted to read:

145 **67-1-17. Government operations privacy officer.**

146 (1) As used in this section:

147 (a) "Independent entity" means the same as that term is defined in Section [63E-1-102](#).

148 (b) (i) "Personal data" means any information relating to an identified or identifiable

149 individual.

150 (ii) "Personal data" includes personally identifying information.

151 (c) (i) "Privacy practice" means the acquisition, use, storage, or disposal of personal
152 data.

153 (ii) "Privacy practice" includes:

154 (A) a technology use related to personal data; and

155 (B) policies related to the protection, storage, sharing, and retention of personal data.

156 (d) (i) "State agency" means the following entities that are under the direct supervision
157 and control of the governor or the lieutenant governor:

158 (A) a department;

159 (B) a commission;

160 (C) a board;

161 (D) a council;

162 (E) an institution;

163 (F) an officer;

164 (G) a corporation;

165 (H) a fund;

166 (I) a division;

167 (J) an office;

168 (K) a committee;

169 (L) an authority;

170 (M) a laboratory;

171 (N) a library;

172 (O) a bureau;

173 (P) a panel;

174 (Q) another administrative unit of the state; or

175 (R) an agent of an entity described in Subsections (A) through (Q).

176 (ii) "State agency" does not include:

177 (A) the legislative branch;

178 (B) the judicial branch;

179 (C) an executive branch agency within the Office of the Attorney General, the state

180 auditor, the state treasurer, ~~§~~→ **the State Tax Commission**, ←~~§~~ or the State Board of Education; or

181 (D) an independent entity.

182 (2) The governor may, with the advice and consent of the Senate, appoint a

183 government operations privacy officer.

184 (3) The government operations privacy officer shall:

185 (a) compile information about the privacy practices of state agencies;

186 (b) make public and maintain information about the privacy practices of state agencies

187 on the governor's website;

188 (c) provide state agencies with educational and training materials developed by the

189 Personal Privacy Oversight Commission established in Section [63C-23-201](#) that include the

190 information described in Subsection [63C-23-202\(1\)\(b\)](#);

191 (d) implement a process to analyze and respond to requests from individuals for the

192 government operations privacy officer to review a state agency's privacy practice;

193 (e) identify annually which state agencies' privacy practices pose the greatest risk to

194 individual privacy and prioritize those privacy practices for review;

195 (f) review each year, in as timely a manner as possible, the privacy practices that the

196 government operations privacy officer identifies under Subsection (3)(d) or (e) as posing the

197 greatest risk to individuals' privacy;

198 (g) when reviewing a state agency's privacy practice under Subsection (3)(f), analyze:

199 (i) details about the privacy practice;

200 (ii) information about the type of data being used;

201 (iii) information about how the data is obtained, shared, secured, stored, and disposed;

202 (iv) information about with which persons the state agency shares the information;

203 (v) information about whether an individual can or should be able to opt out of the

204 retention and sharing of the individual's data;

205 (vi) information about how the state agency de-identifies or anonymizes data;

206 (vii) a determination about the existence of alternative technology or improved

207 practices to protect privacy; and

208 (viii) a finding of whether the state agency's current privacy practice adequately

209 protects individual privacy; and

210 (h) after completing a review described in Subsections (3)(f) and (g), determine:

211 (i) each state agency's use of personal data, including the state agency's practices
212 regarding data:

213 (A) acquisition;

214 (B) storage;

215 (C) disposal;

216 (D) protection; and

217 (E) sharing;

218 (ii) the adequacy of the state agency's practices in each of the areas described in
219 Subsection (3)(h)(i); and

220 (iii) for each of the areas described in Subsection (3)(h)(i) that the government
221 operations privacy officer determines require reform, provide recommendations to the state
222 agency for reform.

223 (4) The government operations privacy officer shall:

224 (a) quarterly report, to the Personal Privacy Oversight Commission:

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

226 (ii) the information described in Subsection (3)(h); and

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

228 (i) the results of any reviews described in Subsection (3)(g), if any reviews have been
229 completed;

230 (ii) reforms, to the extent that the government operations privacy officer is aware of
231 any reforms, that the state agency made in response to any reviews described in Subsection
232 (3)(g);

233 (iii) the information described in Subsection (3)(h); and

234 (iv) recommendations for legislation based on the results of any reviews described in
235 Subsection (3)(g).

236 Section 6. Section **67-3-1** is amended to read:

237 **67-3-1. Functions and duties.**

238 (1) (a) The state auditor is the auditor of public accounts and is independent of any
239 executive or administrative officers of the state.

240 (b) The state auditor is not limited in the selection of personnel or in the determination
241 of the reasonable and necessary expenses of the state auditor's office.

242 (2) The state auditor shall examine and certify annually in respect to each fiscal year,
243 financial statements showing:

- 244 (a) the condition of the state's finances;
- 245 (b) the revenues received or accrued;
- 246 (c) expenditures paid or accrued;
- 247 (d) the amount of unexpended or unencumbered balances of the appropriations to the
248 agencies, departments, divisions, commissions, and institutions; and
- 249 (e) the cash balances of the funds in the custody of the state treasurer.

250 (3) (a) The state auditor shall:

251 (i) audit each permanent fund, each special fund, the General Fund, and the accounts of
252 any department of state government or any independent agency or public corporation as the law
253 requires, as the auditor determines is necessary, or upon request of the governor or the
254 Legislature;

255 (ii) perform the audits in accordance with generally accepted auditing standards and
256 other auditing procedures as promulgated by recognized authoritative bodies;

257 (iii) as the auditor determines is necessary, conduct the audits to determine:

- 258 (A) honesty and integrity in fiscal affairs;
- 259 (B) accuracy and reliability of financial statements;
- 260 (C) effectiveness and adequacy of financial controls; and
- 261 (D) compliance with the law.

262 (b) If any state entity receives federal funding, the state auditor shall ensure that the
263 audit is performed in accordance with federal audit requirements.

264 (c) (i) The costs of the federal compliance portion of the audit may be paid from an
265 appropriation to the state auditor from the General Fund.

266 (ii) If an appropriation is not provided, or if the federal government does not
267 specifically provide for payment of audit costs, the costs of the federal compliance portions of
268 the audit shall be allocated on the basis of the percentage that each state entity's federal funding
269 bears to the total federal funds received by the state.

270 (iii) The allocation shall be adjusted to reflect any reduced audit time required to audit
271 funds passed through the state to local governments and to reflect any reduction in audit time
272 obtained through the use of internal auditors working under the direction of the state auditor.

273 (4) (a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to
274 financial audits, and as the auditor determines is necessary, conduct performance and special
275 purpose audits, examinations, and reviews of any entity that receives public funds, including a
276 determination of any or all of the following:

277 (i) the honesty and integrity of all [~~its~~] the entity's fiscal affairs;

278 (ii) whether or not [~~its~~] the entity's administrators have faithfully complied with
279 legislative intent;

280 (iii) whether or not [~~its~~] the entity's operations have been conducted in an efficient,
281 effective, and cost-efficient manner;

282 (iv) whether or not [~~its~~] the entity's programs have been effective in accomplishing the
283 intended objectives; and

284 (v) whether or not [~~its~~] the entity's management, control, and information systems are
285 adequate, effective, and secure.

286 (b) The auditor may not conduct performance and special purpose audits,
287 examinations, and reviews of any entity that receives public funds if the entity:

288 (i) has an elected auditor; and

289 (ii) has, within the entity's last budget year, had [~~its~~] the entity's financial statements or
290 performance formally reviewed by another outside auditor.

291 (5) The state auditor:

292 (a) shall administer any oath or affirmation necessary to the performance of the duties
293 of the auditor's office[;]; and

294 (b) may:

295 (i) subpoena witnesses and documents, whether electronic or otherwise[;]; and

296 (ii) examine into any matter that the auditor considers necessary.

297 (6) The state auditor may require all persons who have had the disposition or
298 management of any property of this state or its political subdivisions to submit statements
299 regarding [~~it~~] the property at the time and in the form that the auditor requires.

300 (7) The state auditor shall:

301 (a) except where otherwise provided by law, institute suits in Salt Lake County in
302 relation to the assessment, collection, and payment of [~~its~~] revenues against:

303 (i) persons who by any means have become entrusted with public money or property

304 and have failed to pay over or deliver the money or property; and
305 (ii) all debtors of the state;
306 (b) collect and pay into the state treasury all fees received by the state auditor;
307 (c) perform the duties of a member of all boards of which the state auditor is a member
308 by the constitution or laws of the state, and any other duties that are prescribed by the
309 constitution and by law;
310 (d) stop the payment of the salary of any state official or state employee who:
311 (i) refuses to settle accounts or provide required statements about the custody and
312 disposition of public funds or other state property;
313 (ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling
314 board or department head with respect to the manner of keeping prescribed accounts or funds;
315 or
316 (iii) fails to correct any delinquencies, improper procedures, and errors brought to the
317 official's or employee's attention;
318 (e) establish accounting systems, methods, and forms for public accounts in all taxing
319 or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;
320 (f) superintend the contractual auditing of all state accounts;
321 (g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of
322 property taxes from a state or local taxing or fee-assessing unit, if necessary, to ensure that
323 officials and employees in those taxing units comply with state laws and procedures in the
324 budgeting, expenditures, and financial reporting of public funds;
325 (h) subject to Subsection (9), withhold the disbursement of tax money from any county,
326 if necessary, to ensure that officials and employees in the county comply with Section
327 [59-2-303.1](#); and
328 (i) withhold state allocated funds or the disbursement of property taxes from a local
329 government entity or a limited purpose entity, as those terms are defined in Section [67-1a-15](#) if
330 the state auditor finds the withholding necessary to ensure that the entity registers and
331 maintains the entity's registration with the lieutenant governor, in accordance with Section
332 [67-1a-15](#).
333 (8) (a) Except as otherwise provided by law, the state auditor may not withhold funds
334 under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received formal

335 written notice of noncompliance from the auditor and has been given 60 days to make the
336 specified corrections.

337 (b) If, after receiving notice under Subsection (8)(a), a state or independent local
338 fee-assessing unit that exclusively assesses fees has not made corrections to comply with state
339 laws and procedures in the budgeting, expenditures, and financial reporting of public funds, the
340 state auditor:

341 (i) shall provide a recommended timeline for corrective actions; [and]

342 (ii) may prohibit the state or local fee-assessing unit from accessing money held by the
343 state; and

344 (iii) may prohibit a state or local fee-assessing unit from accessing money held in an
345 account of a financial institution by filing an action in district court requesting an order of the
346 court to prohibit a financial institution from providing the fee-assessing unit access to an
347 account.

348 (c) The state auditor shall remove a limitation on accessing funds under Subsection
349 (8)(b) upon compliance with state laws and procedures in the budgeting, expenditures, and
350 financial reporting of public funds.

351 (d) If a local taxing or fee-assessing unit has not adopted a budget in compliance with
352 state law, the state auditor:

353 (i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to
354 comply;

355 (ii) may prohibit the taxing or fee-assessing unit from accessing money held by the
356 state; and

357 (iii) may prohibit a taxing or fee-assessing unit from accessing money held in an
358 account of a financial institution by:

359 (A) contacting the taxing or fee-assessing unit's financial institution and requesting that
360 the institution prohibit access to the account; or

361 (B) filing an action in district court requesting an order of the court to prohibit a
362 financial institution from providing the taxing or fee-assessing unit access to an account.

363 (e) If the local taxing or fee-assessing unit adopts a budget in compliance with state
364 law, the state auditor shall eliminate a limitation on accessing funds described in Subsection
365 (8)(d).

366 (9) The state auditor may not withhold funds under Subsection (7)(h) until a county has
367 received formal written notice of noncompliance from the auditor and has been given 60 days
368 to make the specified corrections.

369 (10) (a) The state auditor may not withhold funds under Subsection (7)(i) until the state
370 auditor receives a notice of non-registration, as that term is defined in Section 67-1a-15.

371 (b) If the state auditor receives a notice of non-registration, the state auditor may
372 prohibit the local government entity or limited purpose entity, as those terms are defined in
373 Section 67-1a-15, from accessing:

374 (i) money held by the state; and

375 (ii) money held in an account of a financial institution by:

376 (A) contacting the entity's financial institution and requesting that the institution
377 prohibit access to the account; or

378 (B) filing an action in district court requesting an order of the court to prohibit a
379 financial institution from providing the entity access to an account.

380 (c) The state auditor shall remove the prohibition on accessing funds described in
381 Subsection (10)(b) if the state auditor received a notice of registration, as that term is defined in
382 Section 67-1a-15, from the lieutenant governor.

383 (11) Notwithstanding Subsection (7)(g), (7)(h), (7)(i), (8)(b), (8)(d), or (10)(b), the
384 state auditor:

385 (a) shall authorize a disbursement by a local government entity or limited purpose
386 entity, as those terms are defined in Section 67-1a-15, or a state or local taxing or fee-assessing
387 unit if the disbursement is necessary to:

388 (i) avoid a major disruption in the operations of the local government entity, limited
389 purpose entity, or state or local taxing or fee-assessing unit; or

390 (ii) meet debt service obligations; and

391 (b) may authorize a disbursement by a local government entity, limited purpose entity,
392 or state or local taxing or fee-assessing unit as the state auditor determines is appropriate.

393 (12) (a) The state auditor may seek relief under the Utah Rules of Civil Procedure to
394 take temporary custody of public funds if an action is necessary to protect public funds from
395 being improperly diverted from their intended public purpose.

396 (b) If the state auditor seeks relief under Subsection (12)(a):

397 (i) the state auditor is not required to exhaust the procedures in Subsection (7) or (8);
398 and

399 (ii) the state treasurer may hold the public funds in accordance with Section 67-4-1 if a
400 court orders the public funds to be protected from improper diversion from their public
401 purpose.

402 (13) The state auditor shall:

403 (a) establish audit guidelines and procedures for audits of local mental health and
404 substance abuse authorities and their contract providers, conducted pursuant to Title 17,
405 Chapter 43, Part 2, Local Substance Abuse Authorities, Title 17, Chapter 43, Part 3, Local
406 Mental Health Authorities, Title 51, Chapter 2a, Accounting Reports from Political
407 Subdivisions, Interlocal Organizations, and Other Local Entities Act, and Title 62A, Chapter
408 15, Substance Abuse and Mental Health Act; and

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

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

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

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

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

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

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

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

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

431 (ii) provide additional funding for those audits, if necessary.

432 (16) The state auditor shall:

433 (a) with the assistance, advice, and recommendations of an advisory committee
434 appointed by the state auditor from among local district boards of trustees, officers, and
435 employees and special service district boards, officers, and employees:

436 (i) prepare a Uniform Accounting Manual for Local Districts that:

437 (A) prescribes a uniform system of accounting and uniform budgeting and reporting
438 procedures for local districts under Title 17B, Limited Purpose Local Government Entities -
439 Local Districts, and special service districts under Title 17D, Chapter 1, Special Service
440 District Act;

441 (B) conforms with generally accepted accounting principles; and

442 (C) prescribes reasonable exceptions and modifications for smaller districts to the
443 uniform system of accounting, budgeting, and reporting;

444 (ii) maintain the manual under this Subsection (16)(a) so that [it] the manual continues
445 to reflect generally accepted accounting principles;

446 (iii) conduct a continuing review and modification of procedures in order to improve
447 them;

448 (iv) prepare and supply each district with suitable budget and reporting forms; and

449 (v) (A) prepare instructional materials, conduct training programs, and render other
450 services considered necessary to assist local districts and special service districts in
451 implementing the uniform accounting, budgeting, and reporting procedures; and

452 (B) ensure that any training described in Subsection (16)(a)(v)(A) complies with Title
453 63G, Chapter 22, State Training and Certification Requirements; and

454 (b) continually analyze and evaluate the accounting, budgeting, and reporting practices
455 and experiences of specific local districts and special service districts selected by the state
456 auditor and make the information available to all districts.

457 (17) (a) The following records in the custody or control of the state auditor are
458 protected records under Title 63G, Chapter 2, Government Records Access and Management

459 Act:

460 (i) records that would disclose information relating to allegations of personal
461 misconduct, gross mismanagement, or illegal activity of a past or present governmental
462 employee if the information or allegation cannot be corroborated by the state auditor through
463 other documents or evidence, and the records relating to the allegation are not relied upon by
464 the state auditor in preparing a final audit report;

465 (ii) records and audit workpapers to the extent [~~they~~] the workpapers would disclose
466 the identity of [~~a person~~] an individual who during the course of an audit, communicated the
467 existence of any waste of public funds, property, or manpower, or a violation or suspected
468 violation of a law, rule, or regulation adopted under the laws of this state, a political
469 subdivision of the state, or any recognized entity of the United States, if the information was
470 disclosed on the condition that the identity of the [~~person~~] individual be protected;

471 (iii) before an audit is completed and the final audit report is released, records or drafts
472 circulated to [~~a person~~] an individual who is not an employee or head of a governmental entity
473 for [~~their~~] the individual's response or information;

474 (iv) records that would disclose an outline or part of any audit survey plans or audit
475 program; and

476 (v) requests for audits, if disclosure would risk circumvention of an audit.

477 (b) The provisions of Subsections (17)(a)(i), (ii), and (iii) do not prohibit the disclosure
478 of records or information that relate to a violation of the law by a governmental entity or
479 employee to a government prosecutor or peace officer.

480 (c) The provisions of this Subsection (17) do not limit the authority otherwise given to
481 the state auditor to classify a document as public, private, controlled, or protected under Title
482 63G, Chapter 2, Government Records Access and Management Act.

483 (d) (i) As used in this Subsection (17)(d), "record dispute" means a dispute between the
484 state auditor and the subject of an audit performed by the state auditor as to whether the state
485 auditor may release a record, as defined in Section 63G-2-103, to the public that the state
486 auditor gained access to in the course of the state auditor's audit but which the subject of the
487 audit claims is not subject to disclosure under Title 63G, Chapter 2, Government Records
488 Access and Management Act.

489 (ii) The state auditor may submit a record dispute to the State Records Committee,

490 created in Section [63G-2-501](#), for a determination of whether the state auditor may, in
491 conjunction with the state auditor's release of an audit report, release to the public the record
492 that is the subject of the record dispute.

493 (iii) The state auditor or the subject of the audit may seek judicial review of a State
494 Records Committee determination under Subsection (17)(d)(ii), as provided in Section
495 [63G-2-404](#).

496 (18) If the state auditor conducts an audit of an entity that the state auditor has
497 previously audited and finds that the entity has not implemented a recommendation made by
498 the state auditor in a previous audit, the state auditor shall notify the Legislative Management
499 Committee through ~~its~~ the Legislative Management Committee's audit subcommittee that the
500 entity has not implemented that recommendation.

501 (19) The state auditor shall, with the advice and consent of the Senate, appoint the state
502 privacy officer described in Section [67-3-12](#).

503 Section 7. Section **67-3-12** is enacted to read:

504 **67-3-12. State privacy officer.**

505 (1) As used in this section:

506 (a) "Designated government entity" means a government entity that is not a state
507 agency.

508 (b) "Independent entity" means the same as that term is defined in Section [63E-1-102](#).

509 (c) (i) "Government entity" means the state, a county, a municipality, a higher
510 education institution, a local district, a special service district, a school district, an independent
511 entity, or any other political subdivision of the state or an administrative subunit of any
512 political subdivision, including a law enforcement entity.

513 (ii) "Government entity" includes an agent of an entity described in Subsection
514 (1)(c)(i).

515 (d) (i) "Personal data" means any information relating to an identified or identifiable
516 individual.

517 (ii) "Personal data" includes personally identifying information.

518 (e) (i) "Privacy practice" means the acquisition, use, storage, or disposal of personal
519 data.

520 (ii) "Privacy practice" includes:

- 521 (A) a technology use related to personal data; and
- 522 (B) policies related to the protection, storage, sharing, and retention of personal data.
- 523 (f) (i) "State agency" means the following entities that are under the direct supervision
- 524 and control of the governor or the lieutenant governor:
- 525 (A) a department;
- 526 (B) a commission;
- 527 (C) a board;
- 528 (D) a council;
- 529 (E) an institution;
- 530 (F) an officer;
- 531 (G) a corporation;
- 532 (H) a fund;
- 533 (I) a division;
- 534 (J) an office;
- 535 (K) a committee;
- 536 (L) an authority;
- 537 (M) a laboratory;
- 538 (N) a library;
- 539 (O) a bureau;
- 540 (P) a panel;
- 541 (Q) another administrative unit of the state; or
- 542 (R) an agent of an entity described in Subsections (A) through (Q).
- 543 (ii) "State agency" does not include:
- 544 (A) the legislative branch;
- 545 (B) the judicial branch;
- 546 (C) an executive branch agency within the Office of the Attorney General, the state
- 547 auditor, the state treasurer, ~~§~~→ **the State Tax Commission**, ←~~§~~ or the State Board of Education; or
- 548 (D) an independent entity.
- 549 (2) The state privacy officer shall:
- 550 (a) when completing the duties of this Subsection (2), focus on the privacy practices of
- 551 designated government entities;

552 (b) compile information about government privacy practices of designated government
553 entities;

554 (c) make public and maintain information about government privacy practices on the
555 state auditor's website;

556 (d) provide designated government entities with educational and training materials
557 developed by the Personal Privacy Oversight Commission established in Section [63C-23-201](#)
558 that include the information described in Subsection [63C-23-202\(1\)\(b\)](#);

559 (e) implement a process to analyze and respond to requests from individuals for the
560 state privacy officer to review a designated government entity's privacy practice;

561 (f) identify annually which designated government entities' privacy practices pose the
562 greatest risk to individual privacy and prioritize those privacy practices for review;

563 (g) review each year, in as timely a manner as possible, the privacy practices that the
564 privacy officer identifies under Subsection (2)(e) or (2)(f) as posing the greatest risk to
565 individuals' privacy;

566 (h) when reviewing a designated government entity's privacy practice under Subsection
567 (2)(g), analyze:

568 (i) details about the technology or the policy and the technology's or the policy's
569 application;

570 (ii) information about the type of data being used;

571 (iii) information about how the data is obtained, stored, shared, secured, and disposed;

572 (iv) information about with which persons the designated government entity shares the
573 information;

574 (v) information about whether an individual can or should be able to opt out of the
575 retention and sharing of the individual's data;

576 (vi) information about how the designated government entity de-identifies or
577 anonymizes data;

578 (vii) a determination about the existence of alternative technology or improved
579 practices to protect privacy; and

580 (viii) a finding of whether the designated government entity's current privacy practice
581 adequately protects individual privacy; and

582 (i) after completing a review described in Subsections (2)(g) and (h), determine:

583 (i) each designated government entity's use of personal data, including the designated
584 government entity's practices regarding data:

585 (A) acquisition;

586 (B) storage;

587 (C) disposal;

588 (D) protection; and

589 (E) sharing;

590 (ii) the adequacy of the designated government entity's practices in each of the areas
591 described in Subsection (2)(i)(i); and

592 (iii) for each of the areas described in Subsection (2)(i)(i) that the state privacy officer
593 determines to require reform, provide recommendations for reform to the designated
594 government entity and the legislative body charged with regulating the designated government
595 entity.

596 (3) (a) The legislative body charged with regulating a designated government entity
597 that receives a recommendation described in Subsection (2)(i)(iii) shall hold a public hearing
598 on the proposed reforms:

599 (i) with a quorum of the legislative body present; and

600 (ii) within 90 days after the day on which the legislative body receives the
601 recommendation.

602 (b) (i) The legislative body shall provide notice of the hearing described in Subsection
603 (3)(a).

604 (ii) Notice of the public hearing and the recommendations to be discussed shall be
605 posted on:

606 (A) the Utah Public Notice Website created in Section 63F-1-701 for 30 days before
607 the day on which the legislative body will hold the public hearing; and

608 (B) the website of the designated government entity that received a recommendation, if
609 the designated government entity has a website, for 30 days before the day on which the
610 legislative body will hold the public hearing.

611 (iii) Each notice required under Subsection (3)(b)(i) shall:

612 (A) identify the recommendations to be discussed; and

613 (B) state the date, time, and location of the public hearing.

614 (c) During the hearing described in Subsection (3)(a), the legislative body shall:

615 (i) provide the public the opportunity to ask questions and obtain further information
616 about the recommendations; and

617 (ii) provide any interested person an opportunity to address the legislative body with
618 concerns about the recommendations.

619 (d) At the conclusion of the hearing, the legislative body shall determine whether the
620 legislative body shall adopt reforms to address the ~~§~~ → **[~~recommendation~~ recommendations** ← ~~§~~
and

620a any concerns raised

621 during the public hearing.

622 (4) (a) Except as provided in Subsection (4)(b), if the government operations privacy
623 officer described in Section 67-1-17 is not conducting reviews of the privacy practices of state
624 agencies, the state privacy officer may review the privacy practices of a state agency in
625 accordance with the processes described in this section.

626 (b) ~~§~~ → **[~~Subsections (3) and (5)(b)(ii) do~~ Subsection (3) does** ← ~~§~~ not apply to a state
626a agency.

627 (5) The state privacy officer shall:

628 (a) quarterly report, to the Personal Privacy Oversight Commission:

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

630 (ii) the information provided in Subsection (2)(i); and

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

632 (i) the results of any reviews described in Subsection (2)(g), if any reviews have been
633 completed;

634 (ii) reforms, to the extent that the state privacy officer is aware of any reforms, that the
635 designated government entity made in response to any reviews described in Subsection ~~§~~ → **[~~(3)(g)~~**
(2)(g)

635a ← ~~§~~ ;

636 (iii) the information described in Subsection (2)(i); and

637 (iv) recommendations for legislation based on any results of a review described in
638 Subsection (2)(g).