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RECORDS MANAGEMENT AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Casey Snider

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions relating to the management of certain records.

Highlighted Provisions:

This bill:

- ▶ modifies provisions relating to the purposes and duties of the State Library

Division;

- ▶ includes the Utah Code, the Laws of Utah, and biennial versions of the Utah

Constitution within the digital library that the State Library Division is required to

publish;

- ▶ requires the Office of Legislative Research and General Counsel to deposit digital

copies of those publications with the State Library Division;

- ▶ provides for the Office of Legislative Research and General Counsel to be the

repository and custodian of the official version of the Utah Constitution database, to

update the constitution database as amendments are passed, and to maintain the

bold face descriptive titles to sections of the Utah Constitution;

- ▶ modifies provisions relating to the Office of Legislative Research and General

Counsel's management of certain legislative records;

- ▶ eliminates the responsibility of the Office of Legislative Research and General

Counsel to maintain a legislative research library;

- ▶ modifies duties of and other provisions relating to the state archivist;



- 28 ▶ requires the state archivist to retain and preserve certain legislative records;
- 29 ▶ provides for the transmission of certain legislative records to the state archivist for
- 30 retention and preservation; and
- 31 ▶ makes technical changes.

32 **Money Appropriated in this Bill:**

33 None

34 **Other Special Clauses:**

35 This bill provides a special effective date.

36 **Utah Code Sections Affected:**

37 AMENDS:

- 38 **9-7-101**, as last amended by Laws of Utah 2019, Chapter 221
- 39 **9-7-201**, as renumbered and amended by Laws of Utah 1992, Chapter 241
- 40 **9-7-203**, as last amended by Laws of Utah 2017, Chapter 48
- 41 **9-7-205**, as last amended by Laws of Utah 2017, Chapter 48
- 42 **9-7-207**, as last amended by Laws of Utah 2006, Chapter 81
- 43 **9-7-208**, as repealed and reenacted by Laws of Utah 2006, Chapter 81
- 44 **36-12-12**, as last amended by Laws of Utah 2003, Chapter 92
- 45 **63A-12-102**, as last amended by Laws of Utah 2021, Chapter 344
- 46 **63G-2-703**, as last amended by Laws of Utah 2015, Chapter 258

47 ENACTS:

- 48 **63A-12-102.5**, Utah Code Annotated 1953



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

51 Section 1. Section **9-7-101** is amended to read:

52 **9-7-101. Definitions.**

53 As used in this chapter:

- 54 (1) "Board" means the State Library Board created in Section **9-7-204**.
- 55 (2) "Division" means the State Library Division.
- 56 (3) "Legislative staff office" means the Office of Legislative Research and General
- 57 Counsel.
- 58 (4) "Legislative publication" means:

59 (a) the Utah Code after the legislative staff office prepares an updated Utah Code
60 database incorporating amendments to the Utah Code;

61 (b) the Laws of Utah; and

62 (c) the Utah Constitution after the legislative staff office incorporates into the Utah
63 Constitution amendments to the Utah Constitution that passed during the preceding regular
64 general election.

65 [~~(3)~~] (5) "Library board" means the library board of directors appointed locally as
66 authorized by Section 9-7-402 or 9-7-502 and which exercises general policy authority for
67 library services within a city or county of the state, regardless of the title by which the board is
68 known locally.

69 [~~(4)~~] (6) "Physical format" means a transportable medium in which analog or digital
70 information is published, such as print, microform, magnetic disk, or optical disk.

71 [~~(5)~~] (7) "Policy" means the public library online access policy adopted by a library
72 board to meet the requirements of Section 9-7-215.

73 [~~(6)~~] (8) "Political subdivision" means a county, city, town, school district, public
74 transit district, redevelopment agency, or special improvement or taxing district.

75 [~~(7)~~] (9) "State agency" means:

76 (a) the state; or

77 (b) an office, department, agency, authority, commission, board, institution, hospital,
78 college, university, or other instrumentality of the state.

79 [~~(8)~~] (10) (a) "State publication" means a book, compilation, directory, document,
80 contract or grant report, hearing memorandum, journal, law, legislative bill, magazine, map,
81 monograph, order, ordinance, pamphlet, periodical, proceeding, public memorandum,
82 resolution, register, rule, report, statute, audiovisual material, electronic publication,
83 micrographic form and tape or disc recording regardless of format or method of reproduction,
84 issued or published by a state agency or political subdivision for distribution.

85 (b) "State publication" does not include correspondence, internal confidential
86 publications, office memoranda, university press publications, or publications of the state
87 historical society.

88 Section 2. Section 9-7-201 is amended to read:

89 **9-7-201. State Library Division -- Creation -- Purpose.**

90 (1) There is created within the department the State Library Division under the
91 administration and general supervision of the executive director or the designee of the
92 executive director.

93 (2) The division shall be under the policy direction of the board.

94 (3) The division shall function as the library authority for the state and is responsible
95 for:

96 (a) general library services[;];

97 (b) extension services[;];

98 (c) publishing legislative publications, as provided in this part, that the legislative staff
99 office deposits with the division;

100 (d) the preservation, distribution and exchange of state publications[;];

101 (e) legislative reference[;]; and

102 (f) other services considered proper for a state library.

103 Section 3. Section **9-7-203** is amended to read:

104 **9-7-203. Division duties.**

105 The division shall:

106 (1) establish, operate, and maintain a state publications collection, a digital library of
107 state publications and legislative publications, a bibliographic control system, and depositories
108 as provided in this part;

109 (2) cooperate with:

110 (a) other agencies to facilitate public access to government information through
111 electronic networks or other means;

112 (b) other state or national libraries or library agencies; and

113 (c) the federal government or agencies in accepting federal aid whether in the form of
114 funds or otherwise;

115 (3) receive bequests, gifts, and endowments of money and deposit the funds with the
116 state treasurer to be placed in the State Library Donation Fund, which funds shall be held for
117 the purpose, if any, specifically directed by the donor; and

118 (4) receive bequests, gifts, and endowments of property to be held, used, or disposed
119 of, as directed by the donor, with the approval of the Division of Finance.

120 Section 4. Section **9-7-205** is amended to read:

121 **9-7-205. Duties of board and director.**

122 (1) The board shall:

123 (a) promote, develop, and organize a state library and make provisions for its housing;

124 (b) promote and develop library services throughout the state in cooperation with other
125 state or municipal libraries, schools, or other agencies wherever practical;126 (c) promote the establishment of district, regional, or multicounty libraries as
127 conditions within particular areas of the state may require;128 (d) supervise the books and materials of the state library and require the keeping of
129 careful and complete records of the condition and affairs of the state library;130 (e) establish policies for the administration of the division and for the control,
131 distribution, and lending of books and materials to those libraries, institutions, groups, or
132 individuals entitled to them under this chapter;133 (f) serve as the agency of the state for the administration of state or federal funds that
134 may be appropriated to further library development within the state;135 (g) aid and provide general advisory assistance in the development of statewide school
136 library service and encourage contractual and cooperative relations between school and public
137 libraries;138 (h) give assistance, advice, and counsel to all tax-supported libraries within the state
139 and to all communities or persons proposing to establish a tax-supported library and conduct
140 courses and institutes on the approved methods of operation, selection of books, or other
141 activities necessary to the proper administration of a library;142 (i) furnish or contract for the furnishing of library or information service to state
143 officials, state departments, or any groups that in the opinion of the director warrant the
144 furnishing of those services, particularly through the facilities of traveling libraries to those
145 parts of the state otherwise inadequately supplied by libraries;146 (j) where sufficient need exists and if the director considers it advisable, establish and
147 maintain special departments in the state library to provide services for the blind, visually
148 impaired, persons with disabilities, and professional, occupational, and other groups;149 (k) administer a depository library program by collecting state publications and
150 legislative publications, and providing a bibliographic information system;

151 (l) require the collection of information and statistics necessary to the work of the state

152 library and the distribution of findings and reports;

153 (m) make any report concerning the activities of the state library to the governor as the
154 governor may require; and

155 (n) develop standards for public libraries.

156 (2) The director shall, under the policy direction of the board, carry out the
157 responsibilities under Subsection (1).

158 Section 5. Section **9-7-207** is amended to read:

159 **9-7-207. Deposit of state publications.**

160 (1) (a) (i) Each state agency and political subdivision publishing a digital version of a
161 state publication shall deposit a digital copy with the division.

162 (ii) (A) Upon the legislative staff office's production of a legislative publication, the
163 legislative staff office shall deposit with the division a digital copy of the legislative
164 publication.

165 (B) The legislative staff office's deposit of a legislative publication with the division
166 for the division to publish online, as provided in this part, is a method for the legislative staff
167 office to comply with Section [46-5-108](#).

168 (b) Each state agency and political subdivision shall deposit with the division copies of
169 each state publication that it elects to publish in a physical format in the numbers specified by
170 the state librarian.

171 (c) The division shall forward two copies of each state publication published in a
172 physical format deposited with it by a state agency to the Library of Congress, one copy to the
173 state archivist, at least one copy to each depository library, and retain two copies.

174 (2) Each state agency or political subdivision shall deposit with the division a digital
175 copy of each audio and video publication or recording issued by it for bibliographic listing and
176 retention in the digital library.

177 (3) Each state agency or political subdivision shall deposit with the division copies of
178 audio and video publications or recordings issued by it in physical formats in the numbers
179 specified by the state librarian for bibliographic listing and retention in the state library
180 collection.

181 (4) (a) The division shall publish or make available to the public through electronic
182 networks a list of state agency publications.

183 (b) The list shall be published periodically and distributed to depository libraries and
184 the state archivist.

185 (5) Materials the division considers not to be of major public interest will be listed, but
186 no copies will be required for deposit.

187 Section 6. Section **9-7-208** is amended to read:

188 **9-7-208. Digital library for permanent public access.**

189 (1) The division shall manage and maintain an online, web-accessible digital library for
190 state publications and legislative publications.

191 (2) The division shall provide for permanent public access to the publications in the
192 digital library.

193 (3) The library shall be accessible by agency, author, title, subject, keyword, and such
194 other means as provided by the division.

195 (4) (a) Each state agency publishing a digital version of a state publication shall deposit
196 a digital copy of the publication with the division.

197 (b) A state agency may not remove a state publication it posts to its public website until
198 a copy is deposited into the digital library for permanent public access.

199 Section 7. Section **36-12-12** is amended to read:

200 **36-12-12. Office of Legislative Research and General Counsel -- Established --**
201 **Powers, functions, and duties -- Organization of office -- Selection of director and general**
202 **counsel.**

203 (1) There is established an Office of Legislative Research and General Counsel as a
204 permanent staff office for the Legislature.

205 (2) The powers, functions, and duties of the Office of Legislative Research and General
206 Counsel under the supervision of the director shall be:

207 (a) to provide research and legal staff assistance to all standing, special, and interim
208 committees as follows:

209 (i) to assist each committee chairman in planning the work of the committee;

210 (ii) to prepare and present research and legal information in accordance with committee
211 instructions or instructions of the committee chairman;

212 (iii) to prepare progress reports of committee work when requested; and

213 (iv) to prepare a final committee report in accordance with committee instructions, that

214 includes relevant research information, committee policy recommendations, and recommended
215 legislation;

216 (b) to collect and examine the acts and official reports of any state and report their
217 contents to any committee or member of the Legislature;

218 (c) to provide research and legal analysis services to any interim committee, legislative
219 standing committee, or individual legislator on actual or proposed legislation or subjects of
220 general legislative concern;

221 ~~[(d) to maintain a legislative research library that provides analytical, statistical, legal,
222 and descriptive data relative to current and potential governmental and legislative subjects;]~~

223 ~~[(e)]~~ (d) (i) to exercise under the direction of the general counsel the constitutional
224 authority provided in Article VI, Sec. 32, Utah Constitution, in serving as legal counsel to the
225 Legislature, majority and minority leadership of the House or Senate, any of the Legislature's
226 committees or subcommittees, individual legislators, any of the Legislature's staff offices, or
227 any of the legislative staff; and

228 (ii) to represent the Legislature, majority and minority leadership of the House or
229 Senate, any of the Legislature's committees or subcommittees, individual legislators, any of the
230 Legislature's staff offices, or any of the legislative staff in cases and controversies before courts
231 and administrative agencies and tribunals;

232 ~~[(f)]~~ (e) to prepare and assist in the preparation of legislative bills, resolutions,
233 memorials, amendments, and other documents or instruments required in the legislative
234 process and, under the direction of the general counsel, give advice and counsel regarding them
235 to the Legislature, majority and minority leadership of the House or Senate, any of its members
236 or members-elect, any of its committees or subcommittees, or the legislative staff;

237 ~~[(g)]~~ (f) under the direction of the general counsel, to review, examine, and correct any
238 technical errors and approve legislation that has passed both houses in order to enroll the
239 legislation and prepare the laws for publication;

240 ~~[(h) to keep on file records concerning all legislation and proceedings of the
241 Legislature with respect to legislation referred to in Subsection (2)(g);]~~

242 (g) (i) to exercise control over and to act as the repository and custodian of the official
243 copy and database of the current version of the Utah Constitution;

244 (ii) to incorporate into the Utah Constitution any amendments to the Utah Constitution

245 that pass during a regular general election; and

246 (iii) to update and maintain the bold face descriptive titles to sections of the Utah
247 Constitution;

248 (h) (i) to exercise control over and to act as the repository and custodian of the official
249 copy and database of the Utah Code; and

250 (ii) to keep the Utah Code database current, including updating the database to reflect
251 any duly enacted legislation making changes to the Utah Code;

252 (i) to formulate recommendations for the revision, clarification, classification,
253 arrangement, codification, annotation, and indexing of Utah statutes, and to develop proposed
254 legislation to effectuate the recommendations;

255 (j) to appoint and develop a professional staff within budget limitations; and

256 (k) to prepare and submit the annual budget request for the Office of Legislative
257 Research and General Counsel.

258 (3) The statutory authorization of the Office of Legislative Research and General
259 Counsel to correct technical errors provided in Subsection [~~(2)(g)~~] (2)(f) includes:

260 (a) adopting a uniform system of punctuation, capitalization, numbering, and wording;

261 (b) eliminating duplication and the repeal of laws directly or by implication, including
262 renumbering when necessary;

263 (c) correcting defective or inconsistent section and paragraph structure in the
264 arrangement of the subject matter of existing statutes;

265 (d) eliminating all obsolete and redundant words;

266 (e) correcting obvious errors and inconsistencies including those involving
267 punctuation, capitalization, cross references, numbering, and wording;

268 (f) changing the boldface to more accurately reflect the substance of each section, part,
269 chapter, or title; and

270 (g) merging or determining priority of any amendments, enactments, or repealers to the
271 same code provisions that are passed by the Legislature.

272 (4) In carrying out the duties provided for in this section, the director of the Office of
273 Legislative Research and General Counsel may obtain access to all records, documents, and
274 reports necessary to the scope of the director's duties according to the procedures contained in
275 Title 36, Chapter 14, Legislative Subpoena Powers.

276 (5) In organizing the management of the Office of Legislative Research and General
277 Counsel, the Legislative Management Committee may either:

278 (a) select a person to serve as both the director of the office and as general counsel. In
279 such case, the director of the office shall be a lawyer admitted to practice in Utah and shall
280 have practical management experience or equivalent academic training; or

281 (b) select a person to serve as director of the office who would have general
282 supervisory authority and select another person to serve as the legislative general counsel
283 within the office. In such case, the director of the office shall have a master's degree in public
284 or business administration, economics, or the equivalent in academic or practical experience
285 and the legislative general counsel shall be a lawyer admitted to practice in Utah.

286 Section 8. Section **63A-12-102** is amended to read:

287 **63A-12-102. State archivist -- Duties.**

288 (1) (a) With the approval of the governor, the executive director shall appoint the state
289 archivist to serve as director of the state archives.

290 (b) The state archivist shall be qualified by archival training, education, and
291 experience.

292 (2) The state archivist is charged with ~~[custody of the following]:~~

293 (a) the custody and permanent retention and preservation of:

294 ~~[(a)]~~ (i) the enrolled copy of the original 1895 Utah ~~[constitution]~~ Constitution;

295 ~~[(b) the acts and resolutions passed by the Legislature;]~~

296 ~~[(c) all records kept or deposited with the state archivist as provided by law;]~~

297 ~~[(d) the journals of the Legislature and all bills, resolutions, memorials, petitions, and
298 claims introduced in the Senate or the House of Representatives;]~~

299 ~~[(e)]~~ (ii) Indian war records; ~~[and]~~

300 ~~[(f)]~~ (iii) oaths of office of all state officials~~[-]~~, including legislative officials, required
301 under Article IV, Section 10 of the Utah Constitution to take an oath of office;

302 (iv) all other records, excluding legislative records described in Section [63A-12-102.5](#),
303 kept by or deposited with the state archivist for permanent preservation as provided by law; and

304 (b) the retention and preservation of legislative records, as provided in Section
305 [63A-12-102.5](#).

306 (3) (a) The state archivist is the official custodian of all noncurrent records of

307 permanent or historic value that are not required by law to remain in the custody of the
308 originating governmental entity.

309 (b) Upon the termination of any governmental entity, its records shall be transferred to
310 the state archives.

311 Section 9. Section **63A-12-102.5** is enacted to read:

312 **63A-12-102.5. Preservation of legislative records.**

313 (1) As used in this section:

314 (a) "Historical legislative record" means a permanent legislative record or a
315 supplemental legislative record that a legislative office transmitted to the state archivist before
316 the effective date of this section for retention and preservation.

317 (b) "Legislative office" means:

318 (i) the Senate, the House of Representatives, or a staff office of the Legislature; or

319 (ii) as applicable, a body designated by the Legislative Management Committee to be
320 responsible for:

321 (A) the retention of a legislative record; or

322 (B) the transmission of a legislative record to the division, as provided in this section,
323 if the body chooses to transmit the legislative record to the division.

324 (c) "Legislative retention schedule" means the retention schedule attached as Appendix
325 A to the Legislative Management Committee Policy L. Legislative Records.

326 (d) "Permanent legislative record" means:

327 (i) a joint proclamation issued by the president of the Senate and the speaker of the
328 House of Representatives convening a session of the Legislature under Article VI, Section 2 of
329 the Utah Constitution;

330 (ii) a session journal of the Senate or House of Representatives;

331 (iii) a recording of Senate or House of Representatives floor proceedings;

332 (iv) a numbered bill or resolution of the Senate or House of Representatives, including:

333 (A) a public substitute or amendment;

334 (B) a fiscal note or other information required to accompany a numbered bill or
335 resolution; and

336 (C) an enrolled bill or resolution;

337 (v) an introduced article of impeachment or amendment to an article of impeachment;

338 (vi) as prepared by the Legislature and provided to the public, a list of actions taken on
339 legislation during a legislative session or descriptions of the status of legislation considered
340 during a legislative session;

341 (vii) a notice, agenda, handout or other public meeting material, recording, or minutes
342 of the Legislative Management Committee, Executive Appropriations Committee, standing and
343 interim committees of the Legislature, appropriations subcommittees of the Legislature, audit
344 subcommittees of the Legislature, and other legislative committees, task forces, or
345 commissions, excluding a rules or sifting committee of the Legislature;

346 (viii) a statutorily required budget or appropriations report;

347 (ix) an audit or review report of the Office of the Legislative Auditor General and a
348 record that supports the conclusions and findings of the audit or review report;

349 (x) a version of the Utah Code after the Office of Legislative Research and General
350 Counsel prepares an updated Utah Code database incorporating any duly enacted legislation
351 making changes to the Utah Code;

352 (xi) the Laws of Utah;

353 (xiii) a biennial version of the Utah Constitution after the Office of Legislative
354 Research and General Counsel incorporates into the Utah Constitution amendments that passed
355 during the preceding regular general election; or

356 (xiv) a notice of appeal under Section [63G-9-401](#) relating to a decision of the board of
357 examiners and a record accompanying a notice of appeal.

358 (e) "Supplemental legislative record" means a legislative record that is not a permanent
359 legislative record.

360 (2) A legislative office may, but is not required to, transmit a legislative record to the
361 state archivist for retention and preservation as provided in this section.

362 (3) (a) A legislative office shall consult with the state archivist as the legislative office
363 determines the method and timing of transmitting a legislative record that the legislative office
364 chooses to transmit to the state archivist for the state archivist's retention and preservation as
365 provided in this section.

366 (b) The transmission of a digital copy of a legislative record is sufficient for purposes
367 of the transmission of the legislative record to the state archivist.

368 (4) (a) A legislative record that a legislative office transmits to the state archivist for

369 retention and preservation remains in the control and legal custody of the legislative office and,
370 although retained and preserved by the state archivist, does not become subject to the control or
371 legal custody of the state archivist.

372 (b) The state archivist shall allow a legislative office full and continuing access to any
373 legislative record transmitted to the state archivist for retention and preservation under this
374 section.

375 (5) (a) The state archivist may not disclose a supplemental legislative record without
376 the prior written consent of the legislative office that transmitted the supplemental legislative
377 record to the state archivist.

378 (b) If the state archivist receives a subpoena or other request for a supplemental
379 legislative record, the state archivist shall immediately provide written notice of the subpoena
380 or other request to:

381 (i) the legislative office that transmitted the supplemental legislative record to the state
382 archivist; and

383 (ii) legislative general counsel.

384 (6) The state archivist shall:

385 (a) permanently retain and preserve a historical legislative record;

386 (b) permanently retain and preserve a permanent legislative record that a legislative
387 office chooses to transmit to the state archivist after the effective date of this section; and

388 (c) retain and preserve, according to the legislative retention schedule, a supplemental
389 legislative record that a legislative office chooses to transmit to the state archivist for retention
390 and preservation after the effective date of this section.

391 Section 10. Section **63G-2-703** is amended to read:

392 **63G-2-703. Applicability to the Legislature.**

393 (1) The Legislature and its staff offices shall designate and classify records in
394 accordance with Sections **63G-2-301** through **63G-2-305** as public, private, controlled, or
395 protected.

396 (2) (a) The Legislature and its staff offices are not subject to Section **63G-2-203** or to
397 Part 4, Appeals, Part 5, State Records Committee, or Part 6, Collection of Information and
398 Accuracy of Records.

399 (b) The Legislature is subject to only the following sections in Title 63A, Chapter 12,

400 Division of Archives and Records Service: Sections [63A-12-102](#), [63A-12-102.5](#), and
401 [63A-12-106](#).

402 (3) The Legislature, through the Legislative Management Committee:

403 (a) shall establish policies to handle requests for classification, designation, fees,
404 access, denials, segregation, appeals, management, retention, and amendment of records; and

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

406 (4) Policies shall include reasonable times for responding to access requests consistent
407 with the provisions of Part 2, Access to Records, fees, and reasonable time limits for appeals.

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

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

411 (b) as required by the Legislature, provide program services similar to those available
412 to the executive branch of government, as provided in this chapter and Title 63A, Chapter 12,
413 Division of Archives and Records Service.

414 Section 11. **Effective date.**

415 If approved by two-thirds of all the members elected to each house, this bill takes effect
416 upon approval by the governor, or the day following the constitutional time limit of Utah
417 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
418 the date of veto override.