

2022 -- S 2721

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

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A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- EVIDENCE AND OVERSIGHT
ACT OF 2022

Introduced By: Senators DiPalma, Seveney, Murray, Acosta, and Ciccone

Date Introduced: March 17, 2022

Referred To: Senate Rules, Government Ethics and Oversight

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 42 of the General Laws entitled "STATE AFFAIRS AND
2 GOVERNMENT" is hereby amended by adding thereto the following chapter:

3 CHAPTER 162

4 EVIDENCE AND OVERSIGHT ACT OF 2022

5 **42-162-1. Short title.**

6 This chapter shall be known and may be cited as the "Evidence and Oversight Act of 2022."

7 **42-162-2. Definitions.**

8 For purposes of this chapter, the following definitions apply:

9 (1) "Data" means statistical or factual information in a machine readable format:

10 (i) In alphanumeric form reflected in a list, table, graph, chart, or other non-narrative form
11 that can be digitally transmitted or processed; and

12 (ii) Regularly created or maintained by or on behalf of and owned by an agency that records
13 a measurement, transaction, or determination related to the mission of an agency. "Data" does not
14 include information provided to an agency by other governmental entities, nor does it include image
15 files, such as designs, drawings, maps, photos, or scanned copies of original documents, except that
16 it does include statistical or factual information about such image files and shall include geographic
17 information system data.

18 (2) "Learning agenda" means a set of prioritized research questions and activities that guide

1 an agency's evidence-building and decision making practices.

2 (3) "Open operating standard" means a technical standard developed and maintained by a
3 voluntary consensus standards body that is available to the public without royalty or fee.

4 (4) "Public data" means all data that is collected by any unit of state or local government
5 in pursuance of that entity's official responsibilities. "Public data" does not include information to
6 which an agency may deny access pursuant to any provision of a federal, state, or local law, rule,
7 or regulation, including, but not limited to, an access to public records request pursuant to chapter
8 2 of title 38 ("access to public records").

9 **42-162-3. RI open data.**

10 (a) There is hereby established an open operating standard, to be known as "RI open data",
11 for the State of Rhode Island. Under this open operating standard, each agency of state government
12 shall make available public data sets in a usable and accessible manner. Any unit of local
13 government may adopt the state standard for itself.

14 (b) To implement this chapter, the department of administration may establish rules,
15 policies, standards, and guidance as required.

16 (c) Public data sets that are made available on the Internet by agencies shall be accessible
17 through a single web portal that shall appear at "data.ri.gov." The purpose of the portal is to provide
18 state public data in a usable and accessible manner that enables:

19 (1) Transparency into state spending;

20 (2) Analysts and researchers to generate evidence into the effectiveness of government
21 programs; and

22 (3) Economic development by displaying hard to access information about the state and
23 government operations.

24 (d) If an agency cannot make all such public data sets available on the single web portal,
25 the agency shall annually report to the office of digital excellence and the auditor general the public
26 data set or sets it is unable to make available, the reasons why it cannot do so, and the date by which
27 the agency expects those data sets to be available on the single web portal. The auditor general shall
28 annually audit the reasonableness of these reports and report findings to the house and senate
29 oversight committees. The office of digital excellence shall ensure the reports are posted on
30 data.ri.gov and annually updated.

31 (e) Data.ri.gov shall include data from current data portals, including, but not limited to,
32 the municipal finance transparency portal, COVID-19 transparency portal, the State of Rhode
33 Island transparency portal, the DataSpark DataHub, and the executive office of health and human
34 services ecosystem. It shall also include, but not be limited to, data on:

1 (1) Programmatic transactions over time;

2 (2) State property;

3 (3) Geographic information; and

4 (4) State spending.

5 (f) Federal stimulus spending transparency and impacts of programmatic changes due to
6 federal stimulus spending. This public data shall be prioritized for posting as data.ri.gov begins.

7 (g) Public data sets shall be made available in accordance with technical standards
8 published by the office of digital excellence. The technical standards shall be determined in
9 consultation with the subject matter experts including, but not limited to, state agencies and
10 representatives of units of local government, not-for-profit organizations specializing in public
11 data, and the academic community.

12 (1) Public data sets shall be provided in a format that permits public notification of all
13 updates whenever possible.

14 (2) Public data sets shall be updated as often as is necessary to preserve the integrity and
15 usefulness of the data sets, to the extent that the agency regularly maintains or updates the public
16 data set.

17 (3) Public data sets shall be made available without any registration requirement, license
18 requirement, or restrictions on their use; provided that, the agency may require a third party
19 providing to the public any public data set, or application utilizing such data set, to explicitly
20 identify the source and version of the public data set and a description of any modifications made
21 to such public data set. Registration requirements, license requirements, or restrictions as used in
22 this section shall not include measures designed or required to ensure access to public data sets, to
23 protect the single website housing public data sets from unlawful abuse or attempts to damage or
24 impair use of the website, or to analyze the types of data being used to improve service delivery.

25 (4) Public data sets shall be accessible to external search capabilities.

26 (h) Agencies are expected to continually improve program performance by applying
27 existing evidence of what works, generating new knowledge, and using experimentation and
28 innovation to test new approaches to program delivery. The plan for this work shall be embedded
29 in the agencies' learning agenda and shall be developed using state data and outside research.

30 (i) Within one hundred eighty (180) days of the effective date of this chapter, the office of
31 digital excellence shall prepare and publish a technical standards manual for the publishing of
32 public data sets in raw or unprocessed form through a single web portal by state agencies for the
33 purpose of making public data available to the greatest number of users and for the greatest number
34 of applications and shall, whenever practicable, use open standards for web publishing and e-

1 government.

2 (j) Within one hundred twenty (120) days of the effective date of this chapter, each state
3 agency shall submit a compliance plan to the office of digital excellence and shall make such plan
4 available to the public on the data.ri.gov web portal. Each state agency shall collaborate with the
5 office of digital excellence in formulating its plan. Each plan shall be updated annually as part of
6 the performance plans required in § 35-3-4. The plan shall include:

7 (1) A summary description of public data sets under the control of each state agency on or
8 after the effective date of this chapter;

9 (2) A prioritization of the public data sets for inclusion on the single web portal;

10 (3) A description of how the public data sets will be made compliant with the standards
11 provided for by the office of digital excellence and this chapter; and

12 (4) A description of the agency's learning agenda.

13 (k) For purposes of prioritizing public data sets, state agencies shall consider whether
14 information embodied in the public data set:

15 (1) Can be used to increase agency accountability and responsiveness;

16 (2) Improves public knowledge of the agency and its operations;

17 (3) Furthers the mission of the agency;

18 (4) Creates economic opportunity;

19 (5) Is received via the online forum for inclusion of particular public data sets; or

20 (6) Responds to a need or demand identified by public consultation.

21 (l) Within one hundred twenty (120) days of the effective date of this chapter, each agency
22 shall name an agency data and performance officer to coordinate the requirements of this section
23 and §§ 35-3-4 and 35-3-24.1.

24 (m) Within one hundred twenty (120) days of the effective date of this chapter, the chief
25 digital officer, with the approval of the director of administration, shall name a state chief data
26 officer to coordinate the requirements of this section and §§ 35-3-4 and 35-3-24.1.

27 (n) Within one hundred twenty (120) days of the effective date of this chapter, the governor
28 shall name an advisory board for the data.ri.gov state data portal. The board shall have
29 representation from higher education research institutions in the state, local government, the
30 nonprofit community, and the division of planning, office of management and budget, and office
31 of digital excellence within the department of administration. The board shall be chaired by the
32 director of administration, or the designee, and be staffed by the state's chief data officer.

33 SECTION 2. Section 22-13-4 of the General Laws in Chapter 22-13 entitled "Auditor
34 General" is hereby amended to read as follows:

1 **22-13-4. Definitions -- Duties of auditor general -- Investigations by committee.**

2 (a) The following words and phrases have the following meanings unless a different
3 meaning is required by the context:

4 (1) "Performance audit" means an examination of the effectiveness and efficiency of
5 administration and ~~its efficiency and adequacy in terms of~~ the evidence of the degree of public
6 benefit from the program of the state agency authorized by law to be performed. The "performance
7 audit" may also include a review of the agency in terms of compliance with federal and state laws
8 and executive orders relating to equal employment opportunities and the set aside for minority
9 businesses.

10 (2) "Performance audit plan" means the plan of performance audits to be undertaken by the
11 auditor general throughout the year.

12 (2)(3) "Political subdivision" means a separate agency or unit of local government created
13 or established by law and includes, but is not limited to, the following and the officers of the
14 following: authority, board, branch, bureau, city, commission, council, consolidated government,
15 county, department, district, institution, metropolitan government, municipality, office, officer,
16 public corporation, town, or village.

17 (3)(4) "Post-audit" means an audit made at some point after the completion of a transaction
18 or a group of transactions.

19 (4)(5) "State agency" means a separate agency or unit of state government created or
20 established by law and includes, but is not limited to, the following and the officers of the following:
21 authority, board, branch, bureau, commission, council, department, division, institution, office,
22 officer, or public corporation, as the case may be, except any agency or unit within the legislative
23 branch of state government.

24 (b) The auditor general shall make post-audits and performance audits of public records
25 and perform related duties as prescribed by the committee. He or she shall perform his or her duties
26 independently but under the general policies established by the committee.

27 (c)(1) The auditor general shall have the power and duty to make post-audits and
28 performance audits of the accounts and records of all state agencies, including the board of
29 governors for higher education and the board of regents for elementary and secondary education,
30 as defined in this section.

31 (2) The auditor general shall have the power, when requested by a majority of the
32 committee, to make post-audits and performance audits of accounts and records of any other public
33 body or political subdivision, or any association or corporation created or established by any
34 general or special law of the general assembly, or any person, association, or corporation to which

1 monies of the state have been appropriated by the general assembly. Nothing in the subdivision
2 shall be construed to apply to public utilities.

3 (3) The auditor general shall establish and publicly post a performance audit plan by
4 January 15 of each year. The plan shall be established with recommendations from the house and
5 senate oversight committees and approval and modification by the committees. The plan should
6 consider the state programs that pose the greatest risk of underperforming and the length of time
7 since the auditor general or another entity has conducted a public performance audit of the program.

8 ~~(3)~~(4) The auditor general shall perform or have performed annually a complete post-audit
9 of the financial transactions and accounts of the state when approved by the chairperson of the joint
10 committee on legislative services.

11 (d) The committee may at any time, without regard to whether the legislature is then in
12 session or out of session, take under investigation any matter within the scope of an audit either
13 completed or then being conducted by the auditor general, and in connection with that investigation
14 may exercise the powers of subpoena vested by law in a standing committee of the legislature.

15 (e)(1) The auditor general may, when directed by the committee, designate and direct any
16 auditor employed by him or her to audit any accounts or records within the power of the auditor
17 general to audit. The auditor shall report his or her findings for review by the auditor general, who
18 shall prepare the audit report.

19 (2) The audit report shall make special mention of:

20 (i) Any violation of the laws within the scope of the audit; and

21 (ii) Any illegal or improper expenditure, any improper accounting procedures, all failures
22 to properly record financial transactions, and all other inaccuracies, irregularities, shortages, and
23 defalcations.

24 (3) At the conclusion of the audit, the auditor general or his or her designated representative
25 will conduct an exit conference with the official whose office or department is subject to audit and
26 submit to him or her a draft report which includes a list of findings and recommendations. If an
27 official is not available for the exit conference, delivery of the draft report is presumed to be
28 sufficient notice. The official must submit to the auditor general within sixty (60) days after the
29 receipt of the draft report his or her written reply as to:

30 (i) Acceptance and plan of implementation of each recommendation;

31 (ii) Reason(s) for non-acceptance of a recommendation.

32 (4) Should the auditor general determine that the written explanation or rebuttal of the
33 official whose office is subject to audit is unsatisfactory, he or she shall, as soon as practicable,
34 report his or her findings to the joint committee on legislative services.

1 (f) A copy of the audit report shall be submitted to each member of the committee.

2 (g) If the auditor general discovers any errors, unusual practices, or any other discrepancies
3 in connection with his or her audit or post-audit of a state agency or state officers, the auditor
4 general shall, as soon as practicable, notify in writing the president of the senate and the speaker of
5 the house of representatives, respectively.

6 (h) The auditor general shall annually review the capital development program to
7 determine: (1) the status of all projects included in the program; (2) whether the funds are being
8 properly expended for their intended purposes; (3) the completion date or projected completion
9 date of the projects; (4) which projects require professional services and to determine the identity
10 of individuals or firms appointed; and (5) the expended and unexpended funds. This report shall be
11 annually submitted to the general assembly on the first Wednesday in February.

12 (i) The auditor general shall supervise, coordinate, and/or conduct investigations and
13 inspections or oversight reviews with the purpose of preventing and detecting fraud, waste, abuse
14 and mismanagement in the expenditure of public funds.

15 SECTION 3. Sections 35-3-4 and 35-3-24.1 of the General Laws in Chapter 35-3 entitled
16 "State Budget" are hereby amended to read as follows:

17 **35-3-4. ~~Estimates submitted by department heads~~ Estimates and performance plans**
18 **submitted by department heads.**

19 (a) On dates determined by the budget officer, but not later than the first day of October in
20 each year, each head of a department of the state government, not including the general assembly
21 or the judiciary, shall assemble, correlate, and revise, with power to increase or decrease, the
22 estimates for expenditures and requests for appropriations for the next ensuing fiscal year of each
23 of the divisions, boards, commissions, officers, bureaus, institutions, or agencies of the state
24 included within his or her department, and, after this revision, shall prepare an itemized
25 departmental estimate of the appropriations necessary to meet the financial needs of the department,
26 including a statement in detail of all moneys for which any general or special appropriation is
27 desired at the ensuing session of the general assembly. The estimate shall be in such form, and in
28 such number of copies, and with such explanation as the budget officer may require, and, on dates
29 determined by the budget officer, but not later than the first day of October in each year, shall be
30 submitted to the governor through the budget officer and to the fiscal advisors of the house and
31 senate.

32 (b) The estimates shall also include a supplemental presentation of estimates of
33 expenditures for information resources and information technologies as defined in § 29-8-2
34 [repealed], regardless of source of financing. The estimate shall include a detailed listing and

1 explanation of expenses and the source of funds and shall be in such form, and in such number of
2 copies, and with such explanation as the budget officer may require. Copies shall be provided
3 directly to the house fiscal advisor, the senate fiscal advisor, and the Rhode Island information
4 resources management board.

5 (c) The estimates shall also include documented evidence, if available, that any proposed
6 appropriations for a new program or expanded program will achieve the desired results. If no or
7 insufficient evidence exists, the estimates shall include any necessary requests for appropriations
8 to evaluate the program and establish sufficient evidence.

9 (d) On the same day as the estimates are delivered, heads of departments shall also deliver
10 a department performance and data plan built upon the learning agenda required by chapter 162 of
11 title 42 ("evidence and oversight act of 2022"). The plan shall include strategies for the fiscal year
12 to increase the performance of programmatic outcomes by using evidence or investing in the
13 creation of needed evidence. It shall also include agency plans to increase public transparency of
14 its programmatic data. The plan shall be submitted to the governor through the budget officer and
15 to the fiscal advisors of the house and senate, the auditor general, and the house and senate oversight
16 committees.

17 **35-3-24.1. Program performance measurement.**

18 (a) Beginning with the fiscal year ending June 30, 1997, the governor shall submit, as part
19 of each budget submitted to the general assembly pursuant to § 35-3-7, performance objectives for
20 each program in the budget for the ensuing fiscal year, estimated performance data for the fiscal
21 year in which the budget is submitted, and actual performance data for the preceding two (2)
22 completed fiscal years. Performance data shall include efforts at achieving equal opportunity hiring
23 goals as defined in the department's annual affirmative action plan. The governor shall, in addition,
24 recommend appropriate standards against which to measure program performance using
25 evaluations of performance results where available. Performance in prior years may be used as a
26 standard where appropriate. These performance standards shall be stated in terms of results
27 obtained.

28 (b) The governor may submit, in lieu of any part of the information required to be submitted
29 pursuant to subsection (a), an explanation of why the information cannot, as a practical matter be
30 submitted.

31 (c)(1) The office of management and budget shall be responsible for managing and
32 collecting program performance measures on behalf of the governor. The office is authorized to
33 conduct performance reviews and audits of agencies to determine progress towards achieving
34 performance objectives for programs.

1 (2) In order to collect performance measures from agencies, review performance and
2 provide recommendations the office of budget and management is authorized to coordinate with
3 the office of internal audit regarding the findings and recommendations that result from audits
4 conducted by the office.

5 (3) The office of management and budget, in coordination with the office of digital
6 excellence, shall convene the agency data and performance officers on a regular basis to coordinate
7 statewide progress toward furthering the delivery of annual performance objectives, use of evidence
8 in programs, transparency of programmatic data, and contributions to the statewide data portal.

9 (4) The office of management and budget, in coordination with the office of digital
10 excellence, shall publish guidance for state agencies and updates as necessary, on the agency
11 performance and data plans required by § 35-3-4.

12 SECTION 4. Section 42-11-2.6 of the General Laws in Chapter 42-11 entitled "Department
13 of Administration" is hereby amended to read as follows:

14 **42-11-2.6. Office of Digital Excellence established.**

15 (a) Within the department, division of enterprise technology strategy and services, there
16 shall be established the Office of Digital Excellence. The purposes of the office shall be to move
17 Rhode Island state government into the 21st century through the incorporation of innovation and
18 modern digital capabilities throughout state government and to leverage technology to expand and
19 improve the quality of services and government data transparency provided to Rhode Island
20 citizens; to promote greater access to government and the internet throughout cities and towns; and
21 to position Rhode Island as a national leader in e-government and open data.

22 (b) Within the office, there shall be a chief digital officer who shall be appointed by the
23 director of administration with the approval of the governor and who shall be in the unclassified
24 service. The chief digital officer shall report to the director of administration and be required to:

25 (1) Manage the implementation of all new and mission-critical technology infrastructure
26 projects and upgrades for state agencies. The division of enterprise technology strategy and
27 services, established pursuant to § 42-11-2.8, shall continue to manage and support all day-to-day
28 operations of the state's technology infrastructure, telecommunications, and associated
29 applications;

30 (2) Increase the number of government services that can be provided online in order to
31 allow residents and businesses to complete transactions in a more efficient and transparent manner;

32 (3) Improve the state's websites to provide timely information to online users and as many
33 government services as possible online; ~~and~~

34 (4) Establish, improve, and enhance the state's use of social media and mobile technological

1 applications; and

2 (5) Create and maintain a state data transparency portal, data.ri.gov, and related data
3 standards as included in chapter 162 of title 42 ("evidence and oversight act of 2022").

4 (c) The office shall coordinate its efforts with the division of enterprise technology strategy
5 and services in order to plan, allocate, and implement projects supported by the information
6 technology investment fund established pursuant to § 42-11-2.5.

7 (d) All intellectual property created as a result of work undertaken by employees of the
8 office shall remain the property of the state of Rhode Island. Any patents applied for shall be in the
9 name of the state.

10 (e) The director of administration may promulgate rules and regulations recommended by
11 the chief digital officer in order to effectuate the purposes and requirements of this act.

12 (f) The chief digital officer shall report no later than January 31, 2013, and every January
13 31 thereafter, to the governor, the speaker of the house of representatives, and the senate president
14 regarding the implementation status of all technology infrastructure projects; website
15 improvements; number of e-government transactions and revenues generated; projects supported
16 by the information technology investment fund; the data portal, data standards and data architecture
17 and all other activities undertaken by the office. The report shall also include planned use for
18 projects related to public safety communications and emergency services, recommendations on the
19 development of and opportunities for shared implementation and delivery of these services among
20 municipalities, and strategies for such shared services. The annual report shall be posted on the
21 office's website.

22 SECTION 5. Funding.

23 Ten million dollars (\$100,000,000) in federal stimulus funds is appropriated from funds
24 not otherwise expended for the fiscal year, to the department of administration to support
25 improvements to the state's longitudinal data system, integration of the ecosystem and datahub,
26 and facilitation of data.ri.gov in compliance with federal rules. In addition, seven hundred and fifty
27 thousand dollars (\$750,000) is appropriated from the information technology investment fund from
28 § 42-11-2.5. to support the long-term sustainability of these systems. Four (4) FTE and six hundred
29 and forty thousand dollars (\$640,000) shall be transferred from the office of internal audit within
30 the office of management and budget and the department of administration to the office of the
31 auditor general and legislative services to establish a performance audit unit within the office of
32 the auditor general.

1 SECTION 6. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- EVIDENCE AND OVERSIGHT
ACT OF 2022

- 1 This act would create the Evidence and Oversight Act of 2022 to create and maintain a data
- 2 transparency portal.
- 3 This act would take effect upon passage.

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