



# PERFORMANCE NOTE PROCESS

EXECUTIVE APPROPRIATIONS COMMITTEE  
STAFF: JONATHAN BALL & STEVEN ALLRED

ISSUE BRIEF

## **BACKGROUND**

Joint Rule 4-2-404 provides for a performance note to be attached to certain legislation. The rule originated with SJR 5, 2011 General Session. Since then the rule has been amended slightly to clarify language and adjust a deadline for the Legislative Fiscal Analyst (LFA). Highlights of the rule include:

- LFA reviews all legislation to determine if it creates a “new program” or “new agency” as defined in the rule. If so, the LFA notifies the bill sponsor and affected agency that the affected agency must submit a performance note within three business days.
- LFA publishes a notice stating whether a performance note is required or not required and prints the notice with the legislation (examples of each are attached to this brief on pages 3 and 4).
- When an agency provides a performance note, the sponsor either approves it for release or rejects it. If approved, the LFA prints the note with the legislation (an example is attached to this brief on pages 5-6). If rejected, the LFA prints the note with a notation that the sponsor rejected it; the sponsor may provide an alternative note to LFA for publication.
- LFA does not edit performance notes.
- If an agency does not provide a required performance note, LFA prints a note indicating only that the agency did not submit a note by the submission deadline.
- Performance notes should include information such as performance measures, goals, proposed impacts, resources required, benchmarks, and a statement explaining how data will be gathered objectively.
- Similar to a fiscal note, a performance note is not an official part of the legislation.
- If the legislation passes, the Office of the Legislative Auditor General (LAG) tracks the agency’s implementation of the legislation and determines whether it meets performance measures submitted in the performance note. LAG reports at least annually to the Executive Appropriations Committee.

During the 2015 General Session, LFA determined that 39 bills required a performance note. Previous years were lower, most likely because revenue estimates were higher in 2015 and more bills created new or expanded programs.

## **RECOMMENDATIONS**

After reviewing performance notes over the past four years, the LFA and LAG recommend the following process improvements in order to raise the visibility and quality of performance notes on legislation.

LFA could do the following without a rule change if approved by legislative leadership. However, a rule change would provide clearer direction.

1. Make the process more visible by attaching a performance note to every piece of legislation, on a separate page, similar to a fiscal note. For bills that don't require a performance note, the note would simply indicate, "No Performance Impact."
2. Create a data feed from the agencies so they can submit performance note input directly to LFA similar to the way they submit fiscal note input.
3. Improve internal reviews of performance notes. Currently, rules don't ask LFA to review or edit performance notes. However, LFA and LAG could do so in tandem with LFA's fiscal notes process by having staff review and, if necessary, edit performance notes submitted by agencies. If there are concerns, staff could flag performance notes for follow-up later.
4. Ask leadership to consider using a different color on floor calendars for bills that have a performance impact.

Through rule, the Legislature could also:

5. If the Legislature adopts a recommendation to attach a performance note to every piece of legislation (recommendation #1), remove the notice regarding performance notes on the bottom of the fiscal note because it does not catch the reader's attention or promote the importance of the performance note (see attached examples).
6. Consider heightened consequences to the legislation if the performance note is not supplied or is not adequate. The rule could require a bill that does not have a performance note to be held by either the Rules Committee in the originating chamber, on first reading in the second chamber, or before final passage.



**Fiscal Note**  
**H.B. 22** 2015 General Session  
 Tourism Marketing Performance  
 Amendments  
 by Wilson, B.



**General, Education, and Uniform School Funds**

JR4-5-101

|                           | Ongoing | One-time | Total |
|---------------------------|---------|----------|-------|
| Net GF/EF/USF (rev.-exp.) | \$0     | \$0      | \$0   |

**State Government**

UCA 36-12-13(2)(b)

Enactment of this bill likely will not materially impact state revenue.

| Revenues       | FY 2015 | FY 2016 | FY 2017 |
|----------------|---------|---------|---------|
| Total Revenues | \$0     | \$0     | \$0     |

Enactment of this bill likely will not materially impact state expenditures.

| Expenditures       | FY 2015 | FY 2016 | FY 2017 |
|--------------------|---------|---------|---------|
| Total Expenditures | \$0     | \$0     | \$0     |

|                      |            |            |            |
|----------------------|------------|------------|------------|
| <b>Net All Funds</b> | <b>\$0</b> | <b>\$0</b> | <b>\$0</b> |
|----------------------|------------|------------|------------|

**Local Government**

UCA 36-12-13(2)(c)

Enactment of this bill likely will not result in direct, measurable costs for local governments.

**Individuals & Businesses**

UCA 36-12-13(2)(d)

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.

**Performance Note**

JR4-2-404

No performance note required for this bill

**Notes on Notes**

Fiscal notes estimate the direct costs or revenues of enacting a bill. The Legislature uses them to balance the budget. They do not measure a bill's benefits or non-fiscal impacts like opportunity costs, wait times, or inconvenience. A fiscal note is not an appropriation. The Legislature decides appropriations separately.



**Fiscal Note**  
**H.B. 148**  
 2015 General Session  
 State Employee Health Clinic  
 by Barlow, S.



**General, Education, and Uniform School Funds**

JR4-5-101

|                           | Ongoing | One-time    | Total       |
|---------------------------|---------|-------------|-------------|
| Net GF/EF/USF (rev.-exp.) | \$0     | \$(153,100) | \$(153,100) |

**State Government**

UCA 36-12-13(2)(b)

Enactment of this legislation likely will not materially impact state revenue.

| Revenues       | FY 2015 | FY 2016 | FY 2017 |
|----------------|---------|---------|---------|
| Total Revenues | \$0     | \$0     | \$0     |

Enactment of this bill could cost the Public Employees' Benefit and Insurance Program (PEHP) \$253,000 in fiscal year 2016 for building renovations, equipment, and other start up costs. These expenses can be covered by current excess reserves. PEHP estimates the clinic could be cost neutral beginning in FY 2017 assuming it runs at at least 75% of capacity.

| Expenditures                  | FY 2015 | FY 2016   | FY 2017 |
|-------------------------------|---------|-----------|---------|
| Dedicated Credits             | \$0     | \$40,400  | \$0     |
| Federal Funds                 | \$0     | \$23,100  | \$0     |
| Restricted Funds              | \$0     | \$13,700  | \$0     |
| Other                         | \$0     | \$7,800   | \$0     |
| General Fund, One-Time        | \$0     | \$69,200  | \$0     |
| Education Fund, One-Time      | \$0     | \$83,900  | \$0     |
| Transportation Fund, One-time | \$0     | \$14,900  | \$0     |
| Total Expenditures            | \$0     | \$253,000 | \$0     |

|                      |            |                    |            |
|----------------------|------------|--------------------|------------|
| <b>Net All Funds</b> | <b>\$0</b> | <b>\$(253,000)</b> | <b>\$0</b> |
|----------------------|------------|--------------------|------------|

**Local Government**

UCA 36-12-13(2)(c)

Enactment of this legislation likely will not result in direct, measurable costs for local governments.

**Individuals & Businesses**

UCA 36-12-13(2)(d)

Enactment of this legislation likely will not result in direct, measurable expenditures by Utah residents or businesses.

**Performance Note**

JR4-2-404

Required of the PEHP and due by January 23, 2015

## PERFORMANCE NOTE: AGENCY FORM

H.B. 148

SHORT TITLE State Employees Health Clinic

Joint Rule 4-2-404 requires a Performance Review Note anytime the legislature significantly increases funding for:  New agency  New services or benefits  Serving a new or larger population

## DUE TO THE FISCAL ANALYSIS

CONTACT INFORMATION RESPONDENT: Paul Anderton

Title:

Agency: PEHP

Cell:

Office:

e-mail:

## HOW WILL THE PUBLIC BENEFIT?

1 What is the purpose and the duties of the new program, agency, services, or population served? JR4-2-404(4)(c)(i)

- (i) be convenient for employees and their dependents;
- (ii) reduce sick leave for employees;
- (iii) increase compliance with health care screening and management of chronic health care conditions; and
- (iv) dispense commonly used, pre-packaged drugs in a cost effective manner

2 What services are provided by the funding increase? JR4-2-404(4)(c)(ii)

- 1-preventive visits and screenings 2-management of chronic health care conditions 3-immunizations
- 4-primary care office visits 5-limited diagnostic services and labs 6-dispensing commonly used pre-packaged drugs in a cost effective manner

3 What are the expected outcomes of the new or expanded program and how will the public benefit? JR4-2-404(4)(c)(iii)

- 1-Reduce sick leave for employees
- 2-increase compliance with health care screenings
- 3-improve management of chronic health care conditions
- 4-lower use of urgent care and unnecessary specialist office visits
- 5-Accomplish the outcomes listed above without any additional cost to the state beyond start-up costs after the clinic has reached more than 75% capacity, in which case the state should achieve overall cost savings.

4 How will the bill be implemented and what resources are available to achieve the expected outcomes? JR4-2-404(4)(c)(iv)

- 1-PEHP will look to DHRM to select a location that most appropriately meets the requirements of the bill.
- 2-PEHP will work with DHRM to complete the initial build-out and renovation needed to create a clinic within an existing state building.
- 3-PEHP will use a bid process to select a provider to staff the clinic.
- 4-Premiums from the state risk pool will be used to fund the start-up costs, which include the ramp-up period to 75% capacity.

5 How will the proposed agency activities cause the expected outcomes and public benefit in 3?

Because the providers at the clinic will be compensated using a salary instead of a fee-for-service model, the per-unit-costs at the clinic will be lower than the market given sufficient patient volume. Also, the salary compensation aligns the provider's incentives with the employer's to manage care, provide value and improve outcomes rather than focusing on the number of services they are billing (fee-for-service model). In addition, the increased convenience and lower cost of the clinic will likely help reduce employees' and their dependents' use of higher priced urgent care providers and unnecessary specialist office visits.

**2. PERFORMANCE MEASURES:**

What measures will managers and policymakers use to know if the new or expanded program is providing the expected outcomes and public benefits? Provide one, two, and three year goals or targets, actual results and measures if available to serve as a baseline, and outcomes.

Goal (public benefit):

Measure Title: **Improve Health Outcomes and Reduce Cost**

Description: **Only a portion of the state risk pool population will have convenient access to the clinic and only a portion of those will use it. The goal is to improve health outcomes and reduce costs for those that are using the clinic. We can estimate the impact of the clinic by benchmarking the utilization and overall claims costs of members who use the clinic against similar individuals who don't visit the clinic after controlling for the demographics, risk scores, and medical conditions.**

|                      |         |         |         |         |         |
|----------------------|---------|---------|---------|---------|---------|
| Fiscal Year:         | FY 2013 | FY 2014 | FY 2015 | FY 2016 | FY 2017 |
| Target or Benchmark: |         |         |         |         |         |
| Baseline:            |         |         |         |         |         |

How will program managers collect this performance information and ensure its reliability?

We will pull utilization, demographics, risk score and cost data from our claims databases, and feed the data into our models to perform a benchmarking analysis.

Goal (public benefit):

Measure Title:

Description:

|                      |         |         |         |         |         |
|----------------------|---------|---------|---------|---------|---------|
| Fiscal Year:         | FY 2013 | FY 2014 | FY 2015 | FY 2016 | FY 2017 |
| Target or Benchmark: |         |         |         |         |         |
| Baseline:            |         |         |         |         |         |

How will program managers collect this performance information and ensure its reliability?

Goal (public benefit):

Measure Title:

Description:

|                      |         |         |         |         |         |
|----------------------|---------|---------|---------|---------|---------|
| Fiscal Year:         | FY 2013 | FY 2014 | FY 2015 | FY 2016 | FY 2017 |
| Target or Benchmark: |         |         |         |         |         |
| Baseline:            |         |         |         |         |         |

How will program managers collect this performance information and ensure its reliability?