

JOINT RULES RESOLUTION ON FISCAL NOTE PROCESS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne L. Niederhauser

House Sponsor: _____

LONG TITLE

General Description:

This resolution enacts a legislative rule to provide a process for attaching a performance note on legislation that creates a new program or agency and to provide a review process based on the performance note.

Highlighted Provisions:

This resolution:

- ▶ provides definitions;
- ▶ provides for the placement of a performance note on legislation that creates a new program or agency;

→§ ▶ provides that deadlines for fiscal notes and performance notes be calculated by business days rather than legislative days; ←§

- ▶ outlines duties of the Office of the Legislative Fiscal Analyst relating to determining whether or not a performance note is required;
- ▶ outlines duties of government entities to prepare a performance note;
- ▶ lists information that must be contained in the performance note;
- ▶ outlines the duties of the Legislative Fiscal Analyst and the legislative sponsor in relation to the content of a performance note;
- ▶ outlines duties of the Office of the Legislative Auditor General relating to requesting performance notes from certain government entities that failed to submit notes during the legislative process and to provide information to government agencies;
- ▶ requires the Office of the Legislative Auditor General to evaluate the performance



28 of the new program or agency in reference to the performance note after the new program or
29 agency is established;

30 ▶ provides procedures for requiring the Executive Appropriations Committee to
31 review those programs that fail to meet performance measures; and

32 ▶ provides that the Executive Appropriations Committee may recommend that a
33 program that fails to meet performance measures be repealed, defunded, have its
34 appropriations reduced, or some other action.

35 **Special Clauses:**

36 None

37 **Legislative Rules Affected:**

37a **§→ AMENDS:**

37b **JR4-2-403 ←§**

38 ENACTS:

39 **JR4-2-404**

40 **JR4-2-405**



42 *Be it resolved by the Legislature of the state of Utah:*

42a **§→ Section 1. JR4-2-403 is amended to read:**

42b **JR4-2-403. Fiscal Notes.**

42c **(1) (a) (i) When the Legislative Fiscal Analyst receives the electronic copy of the**
42d **approved legislation from the Office of Legislative Research and General Counsel, that office**
42e **shall, within three {~~legislative~~ } business days:**

42f **(A) review and analyze the legislation to determine its fiscal impact; and**

42g **(B) provide a fiscal note to the sponsor of the legislation.**

42h **(ii) The three day deadline for the preparation of the fiscal note may be extended if the**
42i **Legislative Fiscal Analyst requests it, states the reasons for the delay, and informs the sponsor**
42j **of the legislation of the delay.**

42k **(b) If the Legislative Fiscal Analyst determines that the legislation has no fiscal impact,**
42l **the Legislative Fiscal Analyst may release the fiscal note immediately after the sponsor has**
42m **received a copy of the fiscal note.**

42n **(c) The sponsor may:**

42o **(i) approve the release of the fiscal note;**

42p **(ii) direct that the fiscal note be held; or**

42q **(iii) if the sponsor disagrees with the fiscal note, contact the Legislative Fiscal ←§**

42r **§→Analyst to discuss that disagreement and provide evidence, data, or other information to**
 42s **support a revised fiscal note.**

42t (d) **If the sponsor does not contact the Legislative Fiscal Analyst with instructions**
 42u **about the fiscal note within one 24 hour legislative day, the Legislative Fiscal Analyst shall**
 42v **release the fiscal note.**

42w (e) **The Legislative Fiscal Analyst shall make the final determination on the fiscal note.**

42x (f) **The fiscal note shall be printed with the legislation.**

42y (2) **If an amendment or a substitute to legislation appears to substantively change the**
 42z **fiscal impact of the legislation, the Legislative Fiscal Analyst shall prepare an amended fiscal**
 42aa **note for the legislation.**

42ab (3) **The fiscal note is not an official part of the legislation. ←§**

43 Section **§→ [†] 2 ←§ . JR4-2-404** is enacted to read:

44 **JR4-2-404. Performance Review Notes -- Review of Performance Measures.**

45 (1) As used in this section:

46 (a) (i) "New agency" means:

47 (A) a state governmental entity that did not previously exist;

48 (B) a governmental entity that requires a new appropriation for new funding;

49 (C) a governmental entity that is modified by legislation to add significant services or
 50 benefits that were not previously offered by the governmental entity; or

51 (D) a governmental entity that is modified by legislation to substantially expand the
 52 scope of individuals or entities that are entitled to receive the services or benefits offered by the
 53 governmental entity.

54 (ii) "New agency" does not mean a governmental entity that has been renamed or
 55 moved to another organizational position within that branch of government unless the
 56 government entity meets the criteria in Subsection (1)(a)(i)(C) or (D).

57 (b) (i) "New program" means a program:

58 (A) created by statute that did not previously exist;

152 (iii) if the governmental entity or new agency fails to provide a performance review
153 note within the required deadline, provide notice to those listed in Subsection (5)(c)(ii) that a
154 performance note was requested from, but was not received from, the governmental entity that
155 administers the new program or the new agency.

156 (6) The Legislative Auditor General may use the performance note in its review of new
157 programs and agencies under Section ~~§~~→ [35-12-15] 36-12-15 ←~~§~~ .

158 Section 2. **JR4-2-405** is enacted to read:

159 **JR4-2-405. Failure to Meet Performance Measures -- Revocation of Program or**
160 **Appropriation.**

161 (1) Subject to the procedures and requirements of Section 36-12-15, the Legislative
162 Auditor General shall:

163 (a) review each new agency or new program that has been determined to be a new
164 agency or new program that is subject to the requirements of Joint Rule 4-2-404;

165 (b) if the legislation's performance note contained a performance note submitted by the
166 governmental entity and an alternative performance note submitted by the sponsor of the
167 legislation, review the new agency or new program under each of the performance note
168 standards; and

169 (c) as prioritized by the Legislative Audit Subcommittee, make a determination as to
170 whether the goals or proposed impacts and whether each performance measure have been met
171 or not met.

172 (2) (a) If the Legislative Auditor General makes a determination that the goals or
173 impact or the performance measures have not been substantially met or if a governmental entity
174 refuses to supply a performance note, the Legislative Auditor General shall provide notice of
175 the determination or refusal to:

176 (i) the new agency or the governmental entity that administers the new program;

177 (ii) the sponsor and opposite house sponsor of the legislation that was subject to the
178 performance note requirements under Joint Rule 4-2-404; and

179 (iii) the chairs of the Executive Appropriations Committee.

180 (b) Upon receipt of a notice issued under this Subsection (2), the chairs of the
181 Executive Appropriations Committee shall place the determination on the agenda for review
182 and consideration at the next Executive Appropriations Committee meeting.