Representative Ronda Rudd Menlove proposes the following substitute bill:

1	NONPROFIT ENTITY RECEIPT OF GOVERNMENT MONEY
2	2014 GENERAL SESSION
3	STATE OF UTAH
4	Chief Sponsor: Ronda Rudd Menlove
5	Senate Sponsor:
6 7	LONG TITLE
8	General Description:
9	This bill addresses nonprofit entity receipt of state money.
10	Highlighted Provisions:
11	This bill:
12	defines terms;
13	addresses audits of nonprofit entities;
14	 requires written agreements for grants to nonprofit entities;
15	enacts the Nonprofit Entity Receipt of State Money Act, including:
16	• defining terms;
17	 imposing requirements on a nonprofit entity's receipt of state money; and
18	 authorizing a state entity to seek return of state money if the nonprofit entity
19	fails to comply with the requirements; and
20	makes technical changes.
21	Money Appropriated in this Bill:
22	None
23	Other Special Clauses:
24	None
25	Utah Code Sections Affected:



26	AMENDS:
27	51-2a-102, as last amended by Laws of Utah 2007, Chapter 170
28	ENACTS:
29	51-2a-204 , Utah Code Annotated 1953
30	63J-9-101, Utah Code Annotated 1953
31	63J-9-102, Utah Code Annotated 1953
32	63J-9-201, Utah Code Annotated 1953
33	63J-9-202, Utah Code Annotated 1953
34	
35	Be it enacted by the Legislature of the state of Utah:
36	Section 1. Section 51-2a-102 is amended to read:
37	51-2a-102. Definitions.
38	As used in this chapter:
39	(1) "Accounting reports" means an audit, a review, a compilation, or a fiscal report.
40	(2) "Audit" means an examination that:
41	(a) analyzes the accounts of all officers of the entity having responsibility for the care,
42	management, collection, or disbursement of money belonging to it or appropriated by law or
43	otherwise acquired for its use or benefit;
44	(b) is performed in accordance with generally accepted government auditing standards,
45	or for nonprofit corporations described in Subsection (6)(f), in accordance with generally
46	accepted accounting principles and the Unified Chart of Accounts; and
47	(c) conforms to the uniform classification of accounts established or approved by the
48	state auditor or any other classification of accounts established by any federal government
49	agency.
50	(3) "Audit report" means:
51	(a) the financial statements presented in conformity with generally accepted accounting
52	principles;
53	(b) the auditor's opinion on the financial statements;
54	(c) a statement by the auditor expressing positive assurance of compliance with state
55	fiscal laws identified by the state auditor;
56	(d) a copy of the auditor's letter to management that identifies any material weakness in

57	internal controls discovered by the auditor and other financial issues related to the expenditure
58	of funds received from federal, state, or local governments to be considered by management;
59	and
60	(e) management's response to the specific recommendations.
61	(4) "Compilation" means information presented in the form of financial statements
62	presented in conformity with generally accepted accounting principles that are the
63	representation of management without the accountant undertaking to express any assurances on
64	the statements.
65	(5) "Fiscal report" means providing information detailing revenues and expenditures of
66	all funds using forms provided by the state auditor.
67	(6) "Governing board" means:
68	(a) the governing board of each political subdivision;
69	(b) the governing board of each interlocal organization having the power to tax or to
70	expend public funds;
71	(c) the governing board of any local mental health authority established under the
72	authority of Title 62A, Chapter 15, Substance Abuse and Mental Health Act;
73	(d) the governing board of any substance abuse authority established under the
74	authority of Title 62A, Chapter 15, Substance Abuse and Mental Health Act;
75	(e) the governing board of any area agency established under the authority of Title
76	62A, Chapter 3, Aging and Adult Services;
77	(f) the governing board of any nonprofit corporation that receives:
78	(i) at least 50% of its funds from federal, state, and local government entities through
79	contracts; or
80	(ii) an amount from state entities that is equal to or exceeds the amount specified in
81	Subsection 51-2a-201(1) that would require an audit to be made by a competent certified public
82	accountant;
83	(g) the governing board of any other entity established by a local governmental unit
84	that receives tax exempt status for bonding or taxing purposes; and
85	(h) in municipalities organized under an optional form of municipal government, the
86	municipal legislative body.
87	(7) "Review" means performing inquiry and analytical procedures that provide the

88	accountant with a reasonable basis for expressing limited assurance that there are no material
89	modifications that should be made to the financial statements for them to be in conformity with
90	generally accepted accounting principles.
91	(8) "State entity" means a department, commission, board, council, agency, institution,
92	officer, corporation, fund, division, office, committee, authority, laboratory, library, unit,
93	bureau, panel, or other administrative unit of the state.
94	Section 2. Section 51-2a-204 is enacted to read:
95	51-2a-204. Grants to nonprofit corporations Reporting to the state auditor.
96	(1) A state entity that grants money to a nonprofit corporation shall enter into a written
97	agreement with the nonprofit corporation that requires the nonprofit corporation to:
98	(a) disclose whether:
99	(i) it met or exceeded the requirements listed in Subsection 51-2a-102(6)(f) in the
100	previous fiscal year of the nonprofit corporation; and
101	(ii) it anticipates meeting or exceeding the requirements listed in Subsection
102	51-2a-102(6)(f) in the fiscal year the grant is issued; and
103	(b) comply with the requirements of Title 63J, Chapter 9, Nonprofit Entity Receipt of
104	State Money Act.
105	(2) If the nonprofit corporation discloses to the state entity that it meets or exceeds the
106	requirements listed in Subsection 51-2a-102(6)(f) as described in Subsection (1), the state
107	entity shall notify the state auditor.
108	Section 3. Section 63J-9-101 is enacted to read:
109	CHAPTER 9. NONPROFIT ENTITY RECEIPT OF STATE MONEY ACT
110	Part 1. General Provisions
111	<u>63J-9-101.</u> Title.
112	This chapter is known as the "Nonprofit Entity Receipt of State Money Act."
113	Section 4. Section 63J-9-102 is enacted to read:
114	<u>63J-9-102.</u> Definitions.
115	As used in this chapter:
116	(1) "Bylaws" means the one or more codes of rules, other than the articles of
117	incorporation, adopted for the regulation or management of the affairs of a nonprofit entity
118	irrespective of the one or more names by which the codes of rules are designated.

119	(2) "Nonprofit entity" means an entity that:
120	(a) is operated primarily for a scientific purpose, educational purpose, religious
121	purpose, charitable purpose, or similar purpose in the public interest;
122	(b) is not organized primarily for profit; and
123	(c) no part of the net earnings of which inures to the benefit of any private shareholder
124	or individual holding an interest in the entity.
125	(3) "State entity" means a department, commission, board, council, agency, institution,
126	officer, corporation, fund, division, office, committee, authority, laboratory, library, unit,
127	bureau, panel, or other administrative unit of the state.
128	(4) "State money" means money that is owned, held, or administered by a state entity
129	and derived from state fee or tax revenues.
130	Section 5. Section 63J-9-201 is enacted to read:
131	Part 2. Provision of State Money
132	63J-9-201. Conditions for providing state grant money to a nonprofit entity.
133	A state entity may not provide a nonprofit entity state money through a grant, including
134	a pass-through funding grant, unless:
135	(1) the state entity enters into a written agreement with the nonprofit entity;
136	(2) the written agreement described in Subsection (1) requires the nonprofit entity to
137	provide the state entity an itemized report at least annually detailing the expenditure of the state
138	money; and
139	(3) at the time of receipt of the state money the nonprofit entity has:
140	(a) bylaws that provide for:
141	(i) the financial oversight of the state money; and
142	(ii) compliance with state laws related to the state money;
143	(b) procedures for the governing board of the nonprofit entity to designate an
144	administrator who manages the state money; and
145	(c) procedures for the governing board to dismiss the administrator described by
146	Subsection (3)(b).
147	Section 6. Section 63J-9-202 is enacted to read:
148	63J-9-202. Nonprofit entity's return of state money.
149	The state entity that provides a nonprofit entity state money in accordance with Section

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150	63J-9-201 may require the nonprofit entity to return to the state entity an amount of money that
151	is equal to the state money that is expended in violation of Section 63J-9-201 if the nonprofit
152	entity fails to comply with the written agreement, bylaws, and procedures required by Section
153	63J-9-201 during the time period that the nonprofit entity holds or expends the state money.