

Representative V. Lowry Snow proposes the following substitute bill:

UTAH INDEPENDENT ENTITIES AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: V. Lowry Snow

Senate Sponsor: _____

LONG TITLE

General Description:

This bill imposes certain compliance requirements on certain independent entities.

Highlighted Provisions:

This bill:

▶ requires certain independent entities to adopt policies similar to:

- the Funds Consolidation Act;
- the State Money Management Act;
- the Revenue Procedures and Control Act;
- the Budgetary Procedures Act;
- the Utah Procurement Code;
- the Utah Administrative Services Code; and
- the Utah State Personnel Management Act;

▶ requires the state auditor to:

- conduct annual performance and compliance audits on certain independent entities and report to the Legislature;
- review the results of required financial audits of certain independent entities;

and

▶ makes technical and conforming changes.



26 **Money Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 This bill provides a coordination clause.

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **4-22-4.5**, as last amended by Laws of Utah 2008, Chapter 382

33 **4-22-8**, as last amended by Laws of Utah 2004, Chapter 128

34 **4-22-9**, as enacted by Laws of Utah 1979, Chapter 2

35 **53C-1-201**, as last amended by Laws of Utah 2016, Chapter 193

36 **63E-2-109**, as last amended by Laws of Utah 2012, Chapter 347

37 **63E-2-110**, as last amended by Laws of Utah 2011, Chapter 342

38 **63H-1-201**, as last amended by Laws of Utah 2016, Chapter 371

39 **63H-1-202**, as last amended by Laws of Utah 2015, Chapter 377

40 **63H-4-108**, as last amended by Laws of Utah 2013, Chapter 220

41 **63H-5-107**, as renumbered and amended by Laws of Utah 2011, Chapter 370

42 **63H-5-108**, as last amended by Laws of Utah 2012, Chapter 347

43 **63H-6-103**, as last amended by Laws of Utah 2016, Chapter 301

44 **63H-6-108**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 2

45 **63H-7a-803**, as last amended by Laws of Utah 2016, Chapter 123

46 **63N-6-301**, as last amended by Laws of Utah 2015, Chapter 420 and renumbered and

47 amended by Laws of Utah 2015, Chapter 283

48 **67-3-1**, as last amended by Laws of Utah 2015, Chapter 174

49 **Utah Code Sections Affected by Coordination Clause:**

50 **4-22-9**, as enacted by Laws of Utah 1979, Chapter 2

51 **4-22-301**, Utah Code Annotated 1953

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

54 Section 1. Section **4-22-4.5** is amended to read:

55 **4-22-4.5. Exemption from certain operational requirements.**

56 (1) The commission is exempt from:

- 57 ~~[(1)]~~ (a) Title 51, Chapter 5, Funds Consolidation Act;
- 58 ~~[(2)]~~ (b) Title 51, Chapter 7, State Money Management Act;
- 59 ~~[(3)]~~ (c) Title 63A, Utah Administrative Services Code;
- 60 ~~[(4)]~~ (d) Title 63J, Chapter 1, Budgetary Procedures Act; and
- 61 ~~[(5)]~~ (e) Title 67, Chapter 19, Utah State Personnel Management Act.

62 (2) The commission shall:

63 (a) adopt policies parallel to and consistent with:

- 64 (i) Title 51, Chapter 5, Funds Consolidation Act;
- 65 (ii) Title 51, Chapter 7, State Money Management Act;
- 66 (iii) Title 63A, Utah Administrative Services Code;
- 67 (iv) Title 63J, Chapter 1, Budgetary Procedures Act; and
- 68 (v) Title 67, Chapter 19, Utah State Personnel Management Act;

69 (b) submit to the state auditor:

- 70 (i) copies of the policies no later than November 9, 2017; and
- 71 (ii) any subsequent amendments to the policies no later than 30 days after adoption of

72 the amendments; and

73 (c) post copies of the policies on the commission's website.

74 (3) To ensure compliance with Subsection (2), the commission is subject to
75 performance and compliance audits by the state auditor under Subsection 67-3-1(17).

76 Section 2. Section 4-22-8 is amended to read:

77 **4-22-8. Revenue from assessment used to promote dairy industry -- Deposit of**
78 **funds -- Annual audit of books, records, and accounts -- Annual financial report to**
79 **producers.**

80 (1) The revenue derived from the assessment imposed by Section 4-22-7 shall be used
81 exclusively for the:

- 82 (a) administration of this chapter; and
- 83 (b) promotion of the state's dairy industry.

84 (2) (a) A voucher, receipt, or other written record for each withdrawal from the Utah
85 Dairy Commission Fund shall be kept by the commission.

86 (b) No funds shall be withdrawn from the fund except upon order of the commission.

87 (3) The commission may deposit the proceeds of the assessment in one or more

88 accounts in one or more banks approved by the state as depositories.

89 (4) The books, records, and accounts of the commission's activities are public records.

90 (5) ~~[(a) The accounts of the commission shall be audited once annually]~~ Once per
91 calendar year within 180 days after the fiscal year end, the commission shall:

92 (a) obtain a financial audit of the commission by a licensed accountant ~~[selected by]~~
93 whom the commission selects and ~~[approved by]~~ the state auditor~~[-]~~ approves;

94 (b) ~~[The]~~ submit the results of the audit ~~[shall be submitted]~~ to the:

95 (i) commissioner;

96 (ii) commission; ~~[and]~~

97 (iii) Division of Finance~~[-]~~; and

98 (iv) state auditor; and

99 (c) ~~[It is the responsibility of the commission to]~~ send annually a financial report to
100 each producer.

101 Section 3. Section **4-22-9** is amended to read:

102 **4-22-9. State disclaimer of liability.**

103 The state is not liable for the acts or omissions of the commission~~[-its]~~ or the
104 commission's officers, agents, or employees, including any obligation, expense, debt, or
105 liability of the commission.

106 Section 4. Section **53C-1-201** is amended to read:

107 **53C-1-201. Creation of administration -- Purpose -- Director -- Participation in**
108 **Risk Management Fund -- Audits -- Disclaimer of state liability.**

109 (1) (a) There is established within state government the School and Institutional Trust
110 Lands Administration.

111 (b) The administration shall manage all school and institutional trust lands and assets
112 within the state, except as otherwise provided in Title 53C, Chapter 3, Deposit and Allocation
113 of Revenue from Trust Lands, and Title 53D, Chapter 1, School and Institutional Trust Fund
114 Management Act.

115 (2) The administration is an independent state agency and not a division of any other
116 department.

117 (3) (a) ~~[It]~~ The administration is subject to the usual legislative and executive
118 department controls except as provided in this Subsection (3).

119 (b) (i) The director may make rules as approved by the board that allow the
120 administration to classify a business proposal submitted to the administration as protected
121 under Section 63G-2-305, for as long as is necessary to evaluate the proposal.

122 (ii) The administration shall return the proposal to the party who submitted the
123 proposal, and incur no further duties under Title 63G, Chapter 2, Government Records Access
124 and Management Act, if the administration determines not to proceed with the proposal.

125 (iii) The administration shall classify the proposal pursuant to law if it decides to
126 proceed with the proposal.

127 (iv) Section 63G-2-403 does not apply during the review period.

128 (c) The director shall make rules in compliance with Title 63G, Chapter 3, Utah
129 Administrative Rulemaking Act, except that the administration is not subject to Subsections
130 63G-3-301(6) and (7) and Section 63G-3-601, and the director, with the board's approval, may
131 establish a procedure for the expedited approval of rules, based on written findings by the
132 director showing:

133 (i) the changes in business opportunities affecting the assets of the trust;

134 (ii) the specific business opportunity arising out of those changes which may be lost
135 without the rule or changes to the rule;

136 (iii) the reasons the normal procedures under Section 63G-3-301 cannot be met without
137 causing the loss of the specific opportunity;

138 (iv) approval by at least five board members; and

139 (v) that the director has filed a copy of the rule and a rule analysis, stating the specific
140 reasons and justifications for its findings, with the Office of Administrative Rules and notified
141 interested parties as provided in Subsection 63G-3-301(10).

142 (d) (i) The administration shall comply with Title 67, Chapter 19, Utah State
143 Personnel Management Act, except as provided in this Subsection (3)(d).

144 (ii) The board may approve, upon recommendation of the director, that exemption for
145 specific positions under Subsections 67-19-12(2) and 67-19-15(1) is required in order to enable
146 the administration to efficiently fulfill its responsibilities under the law. The director shall
147 consult with the executive director of the Department of Human Resource Management prior
148 to making such a recommendation.

149 (iii) The positions of director, deputy director, associate director, assistant director,

150 legal counsel appointed under Section 53C-1-305, administrative assistant, and public affairs
151 officer are exempt under Subsections 67-19-12(2) and 67-19-15(1).

152 (iv) Salaries for exempted positions, except for the director, shall be set by the director,
153 after consultation with the executive director of the Department of Human Resource
154 Management, within ranges approved by the board. The board and director shall consider
155 salaries for similar positions in private enterprise and other public employment when setting
156 salary ranges.

157 (v) The board may create an annual incentive and bonus plan for the director and other
158 administration employees designated by the board, based upon the attainment of financial
159 performance goals and other measurable criteria defined and budgeted in advance by the board.

160 (e) (i) The administration shall comply with Title 63G, Chapter 6a, Utah Procurement
161 Code, except where the board approves, upon recommendation of the director, exemption from
162 the Utah Procurement Code, and simultaneous adoption of rules under Title 63G, Chapter 3,
163 Utah Administrative Rulemaking Act, for procurement, which enable the administration to
164 efficiently fulfill its responsibilities under the law.

165 (ii) If the board approves, upon recommendation of the director, exemption from Title
166 63G, Chapter 6a, Utah Procurement Code, the board shall:

167 (A) adopt policies parallel to and consistent with Title 63G, Chapter 6a, Utah
168 Procurement Code;

169 (B) submit to the state auditor copies of the policies no later than November 9, 2017,
170 and any subsequent amendments to the policies no later than 30 days after adoption of the
171 amendments; and

172 (C) post copies of the policies on the website of the board or administration.

173 (iii) To ensure compliance with this Subsection (3)(e), the board is subject to
174 performance and compliance audits by the state auditor under Subsection 67-3-1(17).

175 (f) (i) Except as provided in Subsection (3)(f)(ii), the administration is not subject to
176 the fee agency requirements of Section 63J-1-504.

177 (ii) The following fees of the administration are subject to the requirements of Section
178 63J-1-504: application, assignment, amendment, affidavit for lost documents, name change,
179 reinstatement, grazing nonuse, extension of time, partial conveyance, patent reissue, collateral
180 assignment, electronic payment, and processing.

- 181 (g) (i) The administration is not subject to Subsection 63J-1-206(3)(f).
- 182 (ii) Before transferring appropriated funds between line items, the administration shall
183 submit a proposal to the board for its approval.
- 184 (iii) If the board gives approval to a proposal to transfer appropriated funds between
185 line items, the administration shall submit the proposal to the Legislative Executive
186 Appropriations Committee for its review and recommendations.
- 187 (iv) The Legislative Executive Appropriations Committee may recommend:
- 188 (A) that the administration transfer the appropriated funds between line items;
- 189 (B) that the administration not transfer the appropriated funds between line items; or
- 190 (C) to the governor that the governor call a special session of the Legislature to
191 supplement the appropriated budget for the administration.
- 192 (4) The administration is managed by a director of school and institutional trust lands
193 appointed by a majority vote of the board of trustees with the consent of the governor.
- 194 (5) (a) The board of trustees shall provide policies for the management of the
195 administration and for the management of trust lands and assets.
- 196 (b) The board shall provide policies for the ownership and control of Native American
197 remains that are discovered or excavated on school and institutional trust lands in consultation
198 with the Division of Indian Affairs and giving due consideration to Title 9, Chapter 9, Part 4,
199 Native American Grave Protection and Repatriation Act. The director may make rules in
200 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement
201 policies provided by the board regarding Native American remains.
- 202 (6) In connection with joint ventures and other transactions involving trust lands and
203 minerals approved under Sections 53C-1-303 and 53C-2-401, the administration, with board
204 approval, may become a member of a limited liability company under Title 48, Chapter 3a,
205 Utah Revised Uniform Limited Liability Company Act, as appropriate pursuant to Section
206 48-3a-1405 and is considered a person under Section 48-3a-102.
- 207 (7) Subject to the requirements of Subsection 63E-1-304(2), the administration may
208 participate in coverage under the Risk Management Fund created by Section 63A-4-201.
- 209 (8) The state is not liable for the acts or omissions of the administration or the
210 administration's officers, agents, or employees, including any obligation, expense, debt, or
211 liability of the administration.

212 (9) Once per calendar year within 180 days after the fiscal year end, the administration
213 shall:

214 (a) obtain a financial audit of the administration by a licensed accountant whom the
215 board selects and the state auditor approves; and

216 (b) submit the results of the audit to the state auditor.

217 Section 5. Section **63E-2-109** is amended to read:

218 **63E-2-109. State statutes.**

219 (1) Except as specifically modified in its authorizing statute, each independent
220 corporation shall be exempt from the statutes governing state agencies, including:

221 (a) Title 51, Chapter 5, Funds Consolidation Act;

222 (b) Title 51, Chapter 7, State Money Management Act;

223 (c) Title 63A, Utah Administrative Services Code;

224 (d) Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

225 (e) Title 63G, Chapter 4, Administrative Procedures Act;

226 (f) Title 63G, Chapter 6a, Utah Procurement Code;

227 (g) Title 63J, Chapter 1, Budgetary Procedures Act;

228 (h) Title 63J, Chapter 2, Revenue Procedures and Control Act; and

229 (i) Title 67, Chapter 19, Utah State Personnel Management Act.

230 (2) Except as specifically modified in its authorizing statute, each independent
231 corporation shall be subject to:

232 (a) Title 52, Chapter 4, Open and Public Meetings Act; and

233 (b) Title 63G, Chapter 2, Government Records Access and Management Act.

234 (3) ~~[Each]~~ Subject to Subsection (4), each independent corporation board may adopt its
235 own policies and procedures governing its:

236 (a) funds management;

237 (b) audits; and

238 (c) personnel.

239 (4) (a) Except for the Utah Housing Corporation, created in Section [63H-8-201](#), each
240 independent corporation board shall:

241 (i) adopt policies parallel to and consistent with:

242 (A) Title 51, Chapter 5, Funds Consolidation Act;

- 243 (B) Title 51, Chapter 7, State Money Management Act;
 244 (C) Title 63A, Utah Administrative Services Code;
 245 (D) Title 63G, Chapter 6a, Utah Procurement Code;
 246 (E) Title 63J, Chapter 1, Budgetary Procedures Act; and
 247 (F) Title 67, Chapter 19, Utah State Personnel Management Act;
 248 (ii) submit to the state auditor;
 249 (A) copies of the policies no later than November 9, 2017; and
 250 (B) any subsequent amendments to the policies no later than 30 days after adoption of
 251 the amendments; and
 252 (iii) post copies of the policies on the website of the board or corporation.
 253 (b) To ensure compliance with this Subsection (4), each independent corporation board
 254 is subject to performance and compliance audits by the state auditor under Subsection
 255 [67-3-1\(17\)](#).

256 Section 6. Section **63E-2-110** is amended to read:

257 **63E-2-110. Budgetary and fiscal requirements.**

258 (1) The board of each independent corporation shall annually adopt a budget.

259 (2) (a) All money held in trust by an independent corporation is not public funds, even
 260 if they were public funds before the money was received by the independent corporation.

261 (b) The money of an independent corporation is not required to be held in the custody
 262 of the state treasurer.

263 (3) Once per calendar year within 180 days after the fiscal year end, the board of each
 264 independent corporation shall:

265 (a) obtain a financial audit of the independent corporation by a licensed accountant
 266 whom the board selects and the state auditor approves; and

267 (b) submit the results of the audit to the state auditor.

268 Section 7. Section **63H-1-201** is amended to read:

269 **63H-1-201. Creation of military installation development authority -- Status and**
 270 **powers of authority -- Limitation -- Disclaimer of state liability.**

271 (1) There is created a military installation development authority.

272 (2) The authority is:

273 (a) an independent, nonprofit, separate body corporate and politic, with perpetual

274 succession and statewide jurisdiction, whose purpose is to facilitate the development of
275 military land in a project area;

276 (b) a political subdivision of the state; and
277 (c) a public corporation, as defined in Section [63E-1-102](#).

278 (3) The authority may:

279 (a) as provided in this chapter, facilitate the development of land within one or more
280 project areas, including the ongoing operation of facilities within a project area;

281 (b) sue and be sued;
282 (c) enter into contracts generally;
283 (d) buy, obtain an option upon, or otherwise acquire any interest in real or personal
284 property:

285 (i) in a project area; or
286 (ii) outside a project area for publicly owned infrastructure and improvements, if the
287 board considers the purchase, option, or other interest acquisition to be necessary for fulfilling
288 the authority's development objectives;

289 (e) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or
290 personal property;

291 (f) enter into a lease agreement on real or personal property, either as lessee or lessor:

292 (i) in a project area; or
293 (ii) outside a project area, if the board considers the lease to be necessary for fulfilling
294 the authority's development objectives;

295 (g) provide for the development of land within a project area under one or more
296 contracts;

297 (h) exercise powers and perform functions under a contract, as authorized in the
298 contract;

299 (i) exercise exclusive police power within a project area to the same extent as though
300 the authority were a municipality, including the collection of regulatory fees;

301 (j) receive the property tax allocation and other taxes and fees as provided in this
302 chapter;

303 (k) accept financial or other assistance from any public or private source for the
304 authority's activities, powers, and duties, and expend any funds so received for any of the

305 purposes of this chapter;

306 (l) borrow money, contract with, or accept financial or other assistance from the federal
307 government, a public entity, or any other source for any of the purposes of this chapter and
308 comply with any conditions of the loan, contract, or assistance;

309 (m) issue bonds to finance the undertaking of any development objectives of the
310 authority, including bonds under Title 11, Chapter 17, Utah Industrial Facilities and
311 Development Act, and bonds under Title 11, Chapter 42, Assessment Area Act;

312 (n) hire employees, including contract employees;

313 (o) transact other business and exercise all other powers provided for in this chapter;

314 (p) enter into a development agreement with a developer of land within a project area;

315 (q) enter into an agreement with a political subdivision of the state under which the
316 political subdivision provides one or more municipal services within a project area;

317 (r) enter into an agreement with a private contractor to provide one or more municipal
318 services within a project area;

319 (s) provide for or finance an energy efficiency upgrade, a renewable energy system, or
320 electric vehicle charging infrastructure as defined in Section 11-42-102, in accordance with
321 Title 11, Chapter 42, Assessment Area Act;

322 (t) exercise powers and perform functions that the authority is authorized by statute to
323 exercise or perform; and

324 (u) enter into an agreement with the federal government or an agency of the federal
325 government under which the federal government or agency:

326 (i) provides law enforcement services only to military land within a project area; and

327 (ii) may enter into a mutual aid or other cooperative agreement with a law enforcement
328 agency of the state or a political subdivision of the state.

329 (4) The authority may not itself provide law enforcement service or fire protection
330 service within a project area but may enter into an agreement for one or both of those services,
331 as provided in Subsection (3)(q).

332 (5) The state is not liable for the acts or omissions of the authority or the authority's
333 officers, agents, or employees, including any obligation, expense, debt, or liability of the
334 authority.

335 Section 8. Section 63H-1-202 is amended to read:

336 **63H-1-202. Applicability of other law.**

337 (1) The authority or land within a project area is not subject to:

338 (a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act;

339 (b) Title 17, Chapter 27a, County Land Use, Development, and Management Act;

340 (c) ordinances or regulations of a county or municipality, including those relating to
341 land use, health, business license, or franchise; or

342 (d) the jurisdiction of a local district under Title 17B, Limited Purpose Local
343 Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1,
344 Special Service District Act.

345 (2) (a) The authority is subject to and governed by Sections [63E-2-106](#), [63E-2-107](#),
346 [63E-2-108](#), [63E-2-109](#), [63E-2-110](#), and [63E-2-111](#), but is not otherwise subject to or governed
347 by Title 63E, Independent Entities Code.

348 (b) The authority shall:

349 (i) adopt policies parallel to and consistent with:

350 (A) Title 51, Chapter 5, Funds Consolidation Act;

351 (B) Title 51, Chapter 7, State Money Management Act;

352 (C) Title 63A, Utah Administrative Services Code;

353 (D) Title 63G, Chapter 6a, Utah Procurement Code;

354 (E) Title 63J, Chapter 1, Budgetary Procedures Act; and

355 (F) Title 67, Chapter 19, Utah State Personnel Management Act;

356 (ii) submit to the state auditor:

357 (A) copies of the policies no later than November 9, 2017; and

358 (B) any subsequent amendments to the policies no later than 30 days after adoption of
359 the amendments; and

360 (iii) post copies of the policies on the authority's website.

361 (c) To ensure compliance with Subsection (2)(b), the authority is subject to
362 performance and compliance audits by the state auditor under Subsection [67-3-1\(17\)](#).

363 (3) (a) The definitions in Section [57-8-3](#) apply to this Subsection (3).

364 (b) Notwithstanding the provisions of Title 57, Chapter 8, Condominium Ownership
365 Act, or any other provision of law:

366 (i) if the military is the owner of land in a project area on which a condominium project

367 is constructed, the military is not required to sign, execute, or record a declaration of a
 368 condominium project; and

369 (ii) if a condominium unit in a project area is owned by the military or owned by the
 370 authority and leased to the military for \$1 or less per calendar year, not including any common
 371 charges that are reimbursements for actual expenses:

372 (A) the condominium unit is not subject to any liens under Title 57, Chapter 8,
 373 Condominium Ownership Act;

374 (B) condominium unit owners within the same building or commercial condominium
 375 project may agree on any method of allocation and payment of common area expenses,
 376 regardless of the size or par value of each unit; and

377 (C) the condominium project may not be dissolved without the consent of all the
 378 condominium unit owners.

379 Section 9. Section **63H-4-108** is amended to read:

380 **63H-4-108. Relation to certain acts -- Participation in Risk Management Fund --**

381 **Disclaimer of state liability.**

382 (1) (a) The authority is exempt from:

383 [~~(a)~~] (i) Title 51, Chapter 5, Funds Consolidation Act;

384 [~~(b)~~] (ii) Title 63A, Utah Administrative Services Code;

385 [~~(c)~~] (iii) Title 63G, Chapter 6a, Utah Procurement Code;

386 [~~(d)~~] (iv) Title 63J, Chapter 1, Budgetary Procedures Act; and

387 [~~(e)~~] (v) Title 67, Chapter 19, Utah State Personnel Management Act.

388 (b) The authority shall:

389 (i) adopt policies parallel to and consistent with:

390 (A) Title 51, Chapter 5, Funds Consolidation Act;

391 (B) Title 63A, Utah Administrative Services Code;

392 (C) Title 63G, Chapter 6a, Utah Procurement Code;

393 (D) Title 63J, Chapter 1, Budgetary Procedures Act; and

394 (E) Title 67, Chapter 19, Utah State Personnel Management Act;

395 (ii) submit to the state auditor:

396 (A) copies of the policies no later than November 9, 2017; and

397 (B) any subsequent amendments to the policies no later than 30 days after adoption of

398 the amendments; and

399 (iii) post copies of the policies on the authority's website.

400 (c) To ensure compliance with Subsection (2)(b), the authority is subject to
401 performance and compliance audits by the state auditor under Subsection 67-3-1(17).

402 (2) (a) The authority is subject to audit by the state auditor pursuant to Title 67,
403 Chapter 3, Auditor, and by the legislative auditor general pursuant to Section 36-12-15.

404 (b) Once per calendar year within 180 days after the fiscal year end, the authority shall:

405 (i) obtain a financial audit of the authority by a licensed accountant whom the board
406 selects and the state auditor approves; and

407 (ii) submit the results of the audit to the state auditor.

408 (3) Subject to the requirements of Subsection 63E-1-304(2), the authority may
409 participate in coverage under the Risk Management Fund created by Section 63A-4-201.

410 (4) The state is not liable for the acts or omissions of the authority or the authority's
411 officers, agents, or employees, including any obligation, expense, debt, or liability of the
412 authority.

413 Section 10. Section 63H-5-107 is amended to read:

414 **63H-5-107. Notes, bonds, other obligation -- Not debt liability -- Expenses**
415 **payable from funds provided -- Agency without authority to incur liability on behalf of**
416 **state.**

417 (1) (a) An obligation or liability of the authority does not constitute:

418 (i) a debt or liability of the state or of any of its political subdivisions; or

419 (ii) the loaning of credit of the state or of any of its political subdivisions.

420 (b) An obligation or liability of the authority is payable only from money of the
421 authority.

422 (2) An obligation of the authority shall contain a statement to the effect:

423 (a) that the authority is obligated to pay the obligation solely from the revenues or other
424 money of the authority;

425 (b) that neither the state nor its political subdivisions are obligated to pay it; and

426 (c) that neither the faith and credit nor the taxing power of the state or any of its
427 political subdivisions is pledged to the payment of the obligation.

428 (3) (a) Expenses incurred in carrying out this chapter are payable solely from money of

429 the authority provided under this chapter.

430 (b) Nothing in this chapter authorizes the authority to incur indebtedness or liability on
431 behalf of or payable by the state or any of its political subdivisions.

432 (4) The state is not liable for the acts or omissions of the authority or the authority's
433 officers, agents, or employees.

434 Section 11. Section **63H-5-108** is amended to read:

435 **63H-5-108. Relation to certain acts.**

436 (1) (a) The authority is exempt from:

437 [~~(a)~~] (i) Title 51, Chapter 5, Funds Consolidation Act;

438 [~~(b)~~] (ii) Title 63A, Chapter 1, Department of Administrative Services;

439 [~~(c)~~] (iii) Title 63G, Chapter 6a, Utah Procurement Code;

440 [~~(d)~~] (iv) Title 63J, Chapter 1, Budgetary Procedures Act; and

441 [~~(e)~~] (v) Title 67, Chapter 19, Utah State Personnel Management Act.

442 (b) The authority shall:

443 (i) adopt policies parallel to and consistent with:

444 (A) Title 51, Chapter 5, Funds Consolidation Act;

445 (B) Title 63A, Utah Administrative Services Code;

446 (C) Title 63G, Chapter 6a, Utah Procurement Code;

447 (D) Title 63J, Chapter 1, Budgetary Procedures Act; and

448 (E) Title 67, Chapter 19, Utah State Personnel Management Act;

449 (ii) submit to the state auditor:

450 (A) copies of the policies no later than November 9, 2017; and

451 (B) any subsequent amendments to the policies no later than 30 days after adoption of
452 the amendments; and

453 (iii) post copies of the policies on the authority's website.

454 (c) To ensure compliance with Subsection (2)(b), the authority is subject to
455 performance and compliance audits by the state auditor under Subsection 67-3-1(17).

456 (2) (a) The authority is subject to audit by the state auditor pursuant to Title 67,
457 Chapter 3, Auditor, and by the legislative auditor general pursuant to Section 36-12-15.

458 (b) Once per calendar year within 180 days after the fiscal year end, the authority shall:

459 (i) obtain a financial audit of the authority by a licensed accountant whom the board

460 selects and the state auditor approves; and

461 (ii) submit the results of the audit to the state auditor.

462 Section 12. Section **63H-6-103** is amended to read:

463 **63H-6-103. Utah State Fair Corporation -- Legal status -- Powers -- Disclaimer of**
464 **state liability.**

465 (1) There is created an independent public nonprofit corporation known as the "Utah
466 State Fair Corporation."

467 (2) The board shall file articles of incorporation for the corporation with the Division
468 of Corporations and Commercial Code.

469 (3) The corporation, subject to this chapter, has all powers and authority permitted
470 nonprofit corporations by law.

471 (4) The corporation shall:

472 (a) manage, supervise, and control:

473 (i) all activities relating to the annual exhibition described in Subsection (4)(j); and

474 (ii) except as otherwise provided by statute, all state expositions, including setting the
475 time, place, and purpose of any state exposition;

476 (b) for public entertainment, displays, and exhibits or similar events:

477 (i) provide, sponsor, or arrange the events;

478 (ii) publicize and promote the events; and

479 (iii) secure funds to cover the cost of the exhibits from:

480 (A) private contributions;

481 (B) public appropriations;

482 (C) admission charges; and

483 (D) other lawful means;

484 (c) acquire and designate exposition sites;

485 (d) use generally accepted accounting principles in accounting for the corporation's
486 assets, liabilities, and operations;

487 (e) seek corporate sponsorships for the state fair park or for individual buildings or
488 facilities within the fair park;

489 (f) work with county and municipal governments, the Salt Lake Convention and
490 Visitor's Bureau, the Utah Travel Council, and other entities to develop and promote

491 expositions and the use of the state fair park;

492 (g) develop and maintain a marketing program to promote expositions and the use of
493 the state fair park;

494 (h) in accordance with provisions of this part, operate and maintain the state fair park,
495 including the physical appearance and structural integrity of the state fair park and the
496 buildings located at the state fair park;

497 (i) prepare an economic development plan for the state fair park;

498 (j) hold an annual exhibition that:

499 (i) is called the state fair or a similar name;

500 (ii) promotes and highlights agriculture throughout the state;

501 (iii) includes expositions of livestock, poultry, agricultural, domestic science,
502 horticultural, floricultural, mineral and industrial products, manufactured articles, and domestic
503 animals that, in the corporation's opinion will best stimulate agricultural, industrial, artistic, and
504 educational pursuits and the sharing of talents among the people of Utah;

505 (iv) includes the award of premiums for the best specimens of the exhibited articles
506 and animals;

507 (v) permits competition by livestock exhibited by citizens of other states and territories
508 of the United States; and

509 (vi) is arranged according to plans approved by the board;

510 (k) fix the conditions of entry to the annual exhibition described in Subsection (4)(j);

511 and

512 (l) publish a list of premiums that will be awarded at the annual exhibition described in
513 Subsection (4)(j) for the best specimens of exhibited articles and animals.

514 (5) In addition to the annual exhibition described in Subsection (4)(j), the corporation
515 may hold other exhibitions of livestock, poultry, agricultural, domestic science, horticultural,
516 floricultural, mineral and industrial products, manufactured articles, and domestic animals that,
517 in the corporation's opinion, will best stimulate agricultural, industrial, artistic, and educational
518 pursuits and the sharing of talents among the people of Utah.

519 (6) The corporation may:

520 (a) employ advisers, consultants, and agents, including financial experts and
521 independent legal counsel, and fix their compensation;

- 522 (b) (i) participate in the state's Risk Management Fund created under Section
523 63A-4-201; or
- 524 (ii) procure insurance against any loss in connection with the corporation's property
525 and other assets, including mortgage loans;
- 526 (c) receive and accept aid or contributions of money, property, labor, or other things of
527 value from any source, including any grants or appropriations from any department, agency, or
528 instrumentality of the United States or Utah;
- 529 (d) hold, use, loan, grant, and apply that aid and those contributions to carry out the
530 purposes of the corporation, subject to the conditions, if any, upon which the aid and
531 contributions were made;
- 532 (e) enter into management agreements with any person or entity for the performance of
533 the corporation's functions or powers;
- 534 (f) establish whatever accounts and procedures as necessary to budget, receive, and
535 disburse, account for, and audit all funds received, appropriated, or generated;
- 536 (g) subject to Subsection (8), lease any of the facilities at the state fair park;
- 537 (h) sponsor events as approved by the board; and
- 538 (i) enter into one or more agreements to develop the state fair park.
- 539 (7) (a) Except as provided in Subsection (7)~~(f)~~(d), as an independent agency of Utah,
540 the corporation is exempt from:
- 541 (i) Title 51, Chapter 5, Funds Consolidation Act;
- 542 (ii) Title 51, Chapter 7, State Money Management Act;
- 543 (iii) Title 63A, Utah Administrative Services Code;
- 544 (iv) Title 63G, Chapter 6a, Utah Procurement Code;
- 545 (v) Title 63J, Chapter 1, Budgetary Procedures Act; and
- 546 (vi) Title 67, Chapter 19, Utah State Personnel Management Act.
- 547 (b) The board shall:
- 548 (i) adopt policies parallel to and consistent with:
- 549 ~~(i)~~ (A) Title 51, Chapter 5, Funds Consolidation Act;
- 550 ~~(ii)~~ (B) Title 51, Chapter 7, State Money Management Act;
- 551 ~~(iii)~~ (C) Title 63A, Utah Administrative Services Code;
- 552 ~~(iv)~~ (D) Title 63G, Chapter 6a, Utah Procurement Code; and

- 553 [~~(v)~~] (E) Title 63J, Chapter 1, Budgetary Procedures Act[-];
- 554 (ii) submit to the state auditor:
- 555 (A) copies of the policies no later than November 9, 2017; and
- 556 (B) any subsequent amendments to the policies no later than 30 days after adoption of
- 557 the amendments; and
- 558 (iii) post copies of the policies on the website of the board or corporation.
- 559 (c) To ensure compliance with Subsection (7)(b), the corporation is subject to
- 560 performance and compliance audits by the state auditor under Subsection 67-3-1(17).
- 561 [~~(e)~~] (d) The corporation shall comply with the legislative approval requirements for
- 562 new facilities established in Subsection 63A-5-104(3).
- 563 (8) (a) Before the corporation executes a lease described in Subsection (6)(g) with a
- 564 term of 10 or more years, the corporation shall:
- 565 (i) submit the proposed lease to the State Building Board for the State Building Board's
- 566 approval or rejection; and
- 567 (ii) if the State Building Board approves the proposed lease, submit the proposed lease
- 568 to the Executive Appropriations Committee for the Executive Appropriation Committee's
- 569 review and recommendation in accordance with Subsection (8)(b).
- 570 (b) The Executive Appropriations Committee shall review a proposed lease submitted
- 571 in accordance with Subsection (8)(a) and recommend to the corporation that the corporation:
- 572 (i) execute the proposed sublease; or
- 573 (ii) reject the proposed sublease.
- 574 Section 13. Section **63H-6-108** is amended to read:
- 575 **63H-6-108. Operation of the state fair park -- Disclaimer of state liability.**
- 576 (1) The corporation shall:
- 577 (a) operate and maintain the state fair park in accordance with the facility maintenance
- 578 standards approved by the State Building Board;
- 579 (b) pay for all costs associated with operating and maintaining the state fair park;
- 580 (c) obtain approval from the division before the corporation commences capital
- 581 developments or capital improvements on the state fair park that involve:
- 582 (i) a construction project that costs more than \$250,000; or
- 583 (ii) the construction of a new building that costs more than \$1,000,000;

- 584 (d) obtain a building permit from the division before commencing an activity that
585 requires a building permit;
- 586 (e) ensure that:
- 587 (i) any design plan related to the state fair park satisfies any applicable design standards
588 established by the division or the State Building Board; and
- 589 (ii) construction performed on the state fair park satisfies any applicable construction
590 standards established by the division or the State Building Board;
- 591 (f) for any new construction project on the state fair park that costs \$250,000 or more:
- 592 (i) notify the division before commencing the new construction project; and
- 593 (ii) coordinate with the division regarding review of design plans and construction
594 management;
- 595 (g) obtain approval from the division before the corporation makes any alteration or
596 addition to the water system, heating system, plumbing system, air conditioning system, or
597 electrical system;
- 598 (h) obtain approval from the State Building Board before the corporation demolishes a
599 building or facility on the state fair park;
- 600 (i) keep the state fair park fully insured to protect against loss or damage by fire,
601 vandalism, or malicious mischief;
- 602 (j) in accordance with Subsection (3), at the corporation's expense, and for the mutual
603 benefit of the division, maintain general public liability insurance in an amount equal to at least
604 \$1,000,000 through one or more companies that are:
- 605 (i) licensed to do business in the state;
- 606 (ii) selected by the corporation; and
- 607 (iii) approved by the division and the Division of Risk Management;
- 608 (k) ensure that the division is an additional insured with primary coverage on each
609 insurance policy that the corporation obtains in accordance with this section;
- 610 (l) give the division notice at least 30 days before the day on which the corporation
611 cancels any insurance policy that the corporation obtains in accordance with this section; and
- 612 (m) if any lien is recorded or filed against the state fair park as a result of an act or
613 omission of the corporation, cause the lien to be satisfied or cancelled within 10 days after the
614 day on which the corporation receives notice of the lien.

615 (2) The State Building Board shall notify the State Historic Preservation Office of any
616 State Building Board meeting at which the State Building Board will consider approval to
617 demolish a facility on the state fair park.

618 (3) The general public liability insurance described in Subsection (1)(j) shall:

619 (a) insure against any claim for personal injury, death, or property damage that occurs
620 at the state fair park; and

621 (b) be a blanket policy that covers all activities of the corporation.

622 (4) The division shall administer any capital improvements on the state fair park that
623 cost more than \$250,000.

624 (5) Upon 24 hours notice to the corporation, the division may enter the state fair park
625 to inspect the state fair park and make any repairs that the division determines necessary.

626 (6) If the corporation no longer operates as an independent public nonprofit corporation
627 as described in this chapter, the state shall assume the responsibilities of the corporation under
628 any contract that is:

629 (a) in effect as of the day on which the status of the corporation changes; and

630 (b) for the lease, construction, or development of a building or facility on the state fair
631 park.

632 (7) (a) A debt or obligation contracted by the corporation is a debt or obligation of the
633 corporation.

634 (b) The state is not liable and assumes no responsibility for any debt or obligation
635 described in Subsection (7)(a), unless the Legislature expressly:

636 (i) authorizes the corporation to contract for the debt or obligation; and

637 (ii) accepts liability or assumes responsibility for the debt or obligation.

638 (c) The state is not liable for the acts or omissions of the corporation or the
639 corporation's officers, agents, or employees.

640 (8) The provisions of this section apply notwithstanding any contrary provision in Title
641 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management.

642 Section 14. Section **63H-7a-803** is amended to read:

643 **63H-7a-803. Relation to certain acts -- Participation in Risk Management Fund --**
644 **Disclaimer of state liability.**

645 (1) The Utah Communications Authority is exempt from:

- 646 (a) Title 63A, Utah Administrative Services Code, except as provided in Section
647 [63A-4-205.5](#);
- 648 (b) Title 63G, Chapter 4, Administrative Procedures Act;
- 649 (c) Title 63J, Chapter 1, Budgetary Procedures Act; and
- 650 (d) Title 67, Chapter 19, Utah State Personnel Management Act.
- 651 (2) (a) The board shall:
- 652 (i) adopt budgetary procedures, accounting, and personnel and human resource policies
653 substantially similar to ~~[those]~~ the policies from which ~~[they have been exempted in]~~ the board
654 is exempt under Subsection (1)[-];
- 655 (ii) submit to the state auditor:
- 656 (A) copies of the policies no later than November 9, 2017; and
- 657 (B) any subsequent amendments to the policies no later than 30 days after adoption of
658 the amendments; and
- 659 (iii) post copies of the policies on the authority's website.
- 660 (b) The authority, the board, and the committee members are subject to Title 67,
661 Chapter 16, Utah Public Officers' and Employees' Ethics Act.
- 662 (c) The authority is subject to Title 52, Chapter 4, Open and Public Meetings Act.
- 663 (3) To ensure compliance with Subsection (2)(a), the authority is subject to
664 performance and compliance audits by the state auditor under Subsection [67-3-1\(17\)](#).
- 665 ~~[(3)]~~ (4) (a) Subject to the requirements of Subsection [63E-1-304\(2\)](#), the administration
666 may participate in coverage under the Risk Management Fund created by Section [63A-4-201](#).
- 667 (b) The state is not liable for the acts or omissions of the authority or the authority's
668 officers, agents, or employees, including any obligation, expense, debt, or liability of the
669 authority.
- 670 Section 15. Section **63N-6-301** is amended to read:
- 671 **63N-6-301. Utah Capital Investment Corporation -- Powers and purposes --**
672 **Disclaimer of the state liability.**
- 673 (1) (a) There is created an independent quasi-public nonprofit corporation known as the
674 Utah Capital Investment Corporation.
- 675 (b) The corporation:
- 676 (i) may exercise all powers conferred on independent corporations under Section

677 63E-2-106;

678 (ii) is subject to the prohibited participation provisions of Section 63E-2-107; and

679 (iii) is subject to the other provisions of Title 63E, Chapter 2, Independent

680 Corporations Act, except as otherwise provided in this part.

681 (c) The corporation shall file with the Division of Corporations and Commercial Code:

682 (i) articles of incorporation; and

683 (ii) any amendment to its articles of incorporation.

684 (d) In addition to the articles of incorporation, the corporation may adopt bylaws and

685 operational policies that are consistent with this chapter.

686 (e) Except as otherwise provided in this part, this part does not exempt the corporation

687 from the requirements under state law which apply to other corporations organized under Title

688 63E, Chapter 2, Independent Corporations Act.

689 (2) The purposes of the corporation are to:

690 (a) organize the Utah fund of funds;

691 (b) select an investment fund allocation manager to make venture capital and private

692 equity fund investments by the Utah fund of funds;

693 (c) negotiate the terms of a contract with the investment fund allocation manager;

694 (d) execute the contract with the selected investment fund manager on behalf of the

695 Utah fund of funds;

696 (e) receive funds paid by designated investors for the issuance of certificates by the

697 board for private investment in the Utah fund of funds;

698 (f) receive investment returns from the Utah fund of funds; and

699 (g) establish the redemption reserve to be used by the corporation to redeem

700 certificates.

701 (3) The corporation may not:

702 (a) exercise governmental functions;

703 (b) have members;

704 (c) pledge the credit or taxing power of the state or any political subdivision of the

705 state; or

706 (d) make its debts payable out of any money except money of the corporation.

707 (4) (a) The obligations of the corporation are not obligations of the state or any

708 political subdivision of the state within the meaning of any constitutional or statutory debt
709 limitations, but are obligations of the corporation payable solely and only from the
710 corporation's funds.

711 (b) The state is not liable for the acts or omissions of the corporation or the
712 corporation's officers, agents, or employees.

713 (5) The corporation may:

714 (a) engage consultants and legal counsel;

715 (b) expend funds;

716 (c) invest funds;

717 (d) issue debt and equity, and borrow funds;

718 (e) enter into contracts;

719 (f) insure against loss;

720 (g) hire employees; and

721 (h) perform any other act necessary to carry out its purposes.

722 (6) (a) The corporation shall, in consultation with the board, publish on or before
723 September 1 an annual report of the activities conducted by the Utah fund of funds and submit
724 the report to the governor; the Business, Economic Development, and Labor Appropriations
725 Subcommittee; the Business and Labor Interim Committee; and the Retirement and
726 Independent Entities Interim Committee.

727 (b) The annual report shall:

728 (i) be designed to provide clear, accurate, and accessible information to the public, the
729 governor, and the Legislature;

730 (ii) include a copy of the audit of the Utah fund of funds described in Section
731 [63N-6-405](#);

732 (iii) include a detailed balance sheet, revenue and expenses statement, and cash flow
733 statement;

734 (iv) include detailed information regarding new fund commitments made during the
735 year, including the amount of money committed;

736 (v) include the net rate of return of the Utah fund of funds from the inception of the
737 Utah fund of funds, after accounting for all expenses, including administrative and financing
738 costs;

- 739 (vi) include detailed information regarding:
- 740 (A) realized gains from investments and any realized losses; and
- 741 (B) unrealized gains and any unrealized losses based on the net present value of
- 742 ongoing investments;
- 743 (vii) include detailed information regarding all yearly expenditures, including:
- 744 (A) administrative, operating, and financing costs;
- 745 (B) aggregate compensation information for full- and part-time employees, including
- 746 benefit and travel expenses; and
- 747 (C) expenses related to the allocation manager;
- 748 (viii) include detailed information regarding all funding sources for administrative,
- 749 operations, and financing expenses, including expenses charged by or to the Utah fund of
- 750 funds, including management and placement fees;
- 751 (ix) review the progress of the investment fund allocation manager in implementing its
- 752 investment plan and provide a general description of the investment plan;
- 753 (x) for each individual fund that the Utah fund of funds is invested in that represents at
- 754 least 5% of the net assets of the Utah fund of funds, include the name of the fund, the total
- 755 value of the fund, the fair market value of the Utah fund of funds' investment in the fund, and
- 756 the percentage of the total value of the fund held by the Utah fund of funds;
- 757 (xi) include the number of companies in Utah where an investment was made from a
- 758 fund that the Utah fund of funds is invested in, and provide an aggregate count of new full-time
- 759 employees in the state added by all companies where investments were made by funds that the
- 760 Utah fund of funds is invested in;
- 761 (xii) include an aggregate total value for all funds the Utah fund of funds is invested in,
- 762 and an aggregate total amount of money invested in the state by the funds the Utah fund of
- 763 funds is invested in;
- 764 (xiii) describe any redemption or transfer of a certificate issued under this part;
- 765 (xiv) include actual and estimated potential appropriations the Legislature will be
- 766 required to provide as a result of redeemed certificates or tax credits during the following five
- 767 years;
- 768 (xv) include an evaluation of the state's progress in accomplishing the purposes stated
- 769 in Section [63N-6-102](#); and

770 (xvi) be directly accessible to the public via a link from the main page of the Utah fund
771 of fund's website.

772 (c) The annual report may not identify a specific designated investor who has redeemed
773 or transferred a certificate.

774 Section 16. Section **67-3-1** is amended to read:

775 **67-3-1. Functions and duties.**

776 (1) (a) The state auditor is the auditor of public accounts and is independent of any
777 executive or administrative officers of the state.

778 (b) The state auditor is not limited in the selection of personnel or in the determination
779 of the reasonable and necessary expenses of the state auditor's office.

780 (2) The state auditor shall examine and certify annually in respect to each fiscal year,
781 financial statements showing:

782 (a) the condition of the state's finances;

783 (b) the revenues received or accrued;

784 (c) expenditures paid or accrued;

785 (d) the amount of unexpended or unencumbered balances of the appropriations to the
786 agencies, departments, divisions, commissions, and institutions; and

787 (e) the cash balances of the funds in the custody of the state treasurer.

788 (3) (a) The state auditor shall:

789 (i) audit each permanent fund, each special fund, the General Fund, and the accounts of
790 any department of state government or any independent agency or public corporation as the law
791 requires, as the auditor determines is necessary, or upon request of the governor or the
792 Legislature;

793 (ii) perform the audits in accordance with generally accepted auditing standards and
794 other auditing procedures as promulgated by recognized authoritative bodies;

795 (iii) as the auditor determines is necessary, conduct the audits to determine:

796 (A) honesty and integrity in fiscal affairs;

797 (B) accuracy and reliability of financial statements;

798 (C) effectiveness and adequacy of financial controls; and

799 (D) compliance with the law.

800 (b) If any state entity receives federal funding, the state auditor shall ensure that the

801 audit is performed in accordance with federal audit requirements.

802 (c) (i) The costs of the federal compliance portion of the audit may be paid from an
803 appropriation to the state auditor from the General Fund.

804 (ii) If an appropriation is not provided, or if the federal government does not
805 specifically provide for payment of audit costs, the costs of the federal compliance portions of
806 the audit shall be allocated on the basis of the percentage that each state entity's federal funding
807 bears to the total federal funds received by the state.

808 (iii) The allocation shall be adjusted to reflect any reduced audit time required to audit
809 funds passed through the state to local governments and to reflect any reduction in audit time
810 obtained through the use of internal auditors working under the direction of the state auditor.

811 (4) (a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to
812 financial audits, and as the auditor determines is necessary, conduct performance and special
813 purpose audits, examinations, and reviews of any entity that receives public funds, including a
814 determination of any or all of the following:

815 (i) the honesty and integrity of all its fiscal affairs;

816 (ii) whether or not its administrators have faithfully complied with legislative intent;

817 (iii) whether or not its operations have been conducted in an efficient, effective, and
818 cost-efficient manner;

819 (iv) whether or not its programs have been effective in accomplishing the intended
820 objectives; and

821 (v) whether or not its management, control, and information systems are adequate,
822 effective, and secure.

823 (b) The auditor may not conduct performance and special purpose audits,
824 examinations, and reviews of any entity that receives public funds if the entity:

825 (i) has an elected auditor; and

826 (ii) has, within the entity's last budget year, had its financial statements or performance
827 formally reviewed by another outside auditor.

828 (5) The state auditor shall administer any oath or affirmation necessary to the
829 performance of the duties of the auditor's office, and may subpoena witnesses and documents,
830 whether electronic or otherwise, and examine into any matter that the auditor considers
831 necessary.

832 (6) The state auditor may require all persons who have had the disposition or
833 management of any property of this state or its political subdivisions to submit statements
834 regarding it at the time and in the form that the auditor requires.

835 (7) The state auditor shall:

836 (a) except where otherwise provided by law, institute suits in Salt Lake County in
837 relation to the assessment, collection, and payment of its revenues against:

838 (i) persons who by any means have become entrusted with public money or property
839 and have failed to pay over or deliver the money or property; and

840 (ii) all debtors of the state;

841 (b) collect and pay into the state treasury all fees received by the state auditor;

842 (c) perform the duties of a member of all boards of which the state auditor is a member
843 by the constitution or laws of the state, and any other duties that are prescribed by the
844 constitution and by law;

845 (d) stop the payment of the salary of any state official or state employee who:

846 (i) refuses to settle accounts or provide required statements about the custody and
847 disposition of public funds or other state property;

848 (ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling
849 board or department head with respect to the manner of keeping prescribed accounts or funds;
850 or

851 (iii) fails to correct any delinquencies, improper procedures, and errors brought to the
852 official's or employee's attention;

853 (e) establish accounting systems, methods, and forms for public accounts in all taxing
854 or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;

855 (f) superintend the contractual auditing of all state accounts;

856 (g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of
857 property taxes from a state or local taxing or fee-assessing unit, if necessary, to ensure that
858 officials and employees in those taxing units comply with state laws and procedures in the
859 budgeting, expenditures, and financial reporting of public funds; and

860 (h) subject to Subsection (9), withhold the disbursement of tax money from any county,
861 if necessary, to ensure that officials and employees in the county comply with Section
862 [59-2-303.1](#).

863 (8) (a) Except as otherwise provided by law, the state auditor may not withhold funds
864 under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received formal
865 written notice of noncompliance from the auditor and has been given 60 days to make the
866 specified corrections.

867 (b) If, after receiving notice under Subsection (8)(a), a state or independent local
868 fee-assessing unit that exclusively assesses fees has not made corrections to comply with state
869 laws and procedures in the budgeting, expenditures, and financial reporting of public funds, the
870 state auditor:

871 (i) shall provide a recommended timeline for corrective actions; and

872 (ii) may prohibit the state or local fee-assessing unit from accessing money held by the
873 state; and

874 (iii) may prohibit a state or local fee-assessing unit from accessing money held in an
875 account of a financial institution by filing an action in district court requesting an order of the
876 court to prohibit a financial institution from providing the fee-assessing unit access to an
877 account.

878 (c) The state auditor shall remove a limitation on accessing funds under Subsection
879 (8)(b) upon compliance with state laws and procedures in the budgeting, expenditures, and
880 financial reporting of public funds.

881 (d) If a local taxing or fee-assessing unit has not adopted a budget in compliance with
882 state law, the state auditor:

883 (i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to
884 comply;

885 (ii) may prohibit the taxing or fee-assessing unit from accessing money held by the
886 state; and

887 (iii) may prohibit a taxing or fee-assessing unit from accessing money held in an
888 account of a financial institution by:

889 (A) contacting the taxing or fee-assessing unit's financial institution and requesting that
890 the institution prohibit access to the account; or

891 (B) filing an action in district court requesting an order of the court to prohibit a
892 financial institution from providing the taxing or fee-assessing unit access to an account.

893 (e) If the local taxing or fee-assessing unit adopts a budget in compliance with state

894 law, the state auditor shall eliminate a limitation on accessing funds described in Subsection
895 (8)(d).

896 (9) The state auditor may not withhold funds under Subsection (7)(h) until a county has
897 received formal written notice of noncompliance from the auditor and has been given 60 days
898 to make the specified corrections.

899 (10) Notwithstanding Subsection (7)(g), (7)(h), (8)(b), or (8)(d) the state auditor:

900 (a) shall authorize a disbursement by a state or local taxing or fee-assessing unit if the
901 disbursement is necessary to:

902 (i) avoid a major disruption in the operations of the state or local taxing or
903 fee-assessing unit; or

904 (ii) meet debt service obligations; and

905 (b) may authorize a disbursement by a state or local taxing or fee-assessing unit as the
906 state auditor determines is appropriate.

907 (11) The state auditor shall:

908 (a) establish audit guidelines and procedures for audits of local mental health and
909 substance abuse authorities and their contract providers, conducted pursuant to Title 17,
910 Chapter 43, Part 2, Local Substance Abuse Authorities, and Part 3, Local Mental Health
911 Authorities, Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal
912 Organizations, and Other Local Entities Act, and Title 62A, Chapter 15, Substance Abuse and
913 Mental Health Act; and

914 (b) ensure that those guidelines and procedures provide assurances to the state that:

915 (i) state and federal funds appropriated to local mental health authorities are used for
916 mental health purposes;

917 (ii) a private provider under an annual or otherwise ongoing contract to provide
918 comprehensive mental health programs or services for a local mental health authority is in
919 compliance with state and local contract requirements, and state and federal law;

920 (iii) state and federal funds appropriated to local substance abuse authorities are used
921 for substance abuse programs and services; and

922 (iv) a private provider under an annual or otherwise ongoing contract to provide
923 comprehensive substance abuse programs or services for a local substance abuse authority is in
924 compliance with state and local contract requirements, and state and federal law.

925 (12) The state auditor may, in accordance with the auditor's responsibilities for political
926 subdivisions of the state as provided in Title 51, Chapter 2a, Accounting Reports from Political
927 Subdivisions, Interlocal Organizations, and Other Local Entities Act, initiate audits or
928 investigations of any political subdivision that are necessary to determine honesty and integrity
929 in fiscal affairs, accuracy and reliability of financial statements, effectiveness, and adequacy of
930 financial controls and compliance with the law.

931 (13) (a) The state auditor may not audit work that the state auditor performed before
932 becoming state auditor.

933 (b) If the state auditor has previously been a responsible official in state government
934 whose work has not yet been audited, the Legislature shall:

- 935 (i) designate how that work shall be audited; and
- 936 (ii) provide additional funding for those audits, if necessary.

937 (14) The state auditor shall:

938 (a) with the assistance, advice, and recommendations of an advisory committee
939 appointed by the state auditor from among local district boards of trustees, officers, and
940 employees and special service district boards, officers, and employees:

941 (i) prepare a Uniform Accounting Manual for Local Districts that:

942 (A) prescribes a uniform system of accounting and uniform budgeting and reporting
943 procedures for local districts under Title 17B, Limited Purpose Local Government Entities -
944 Local Districts, and special service districts under Title 17D, Chapter 1, Special Service
945 District Act;

946 (B) conforms with generally accepted accounting principles; and

947 (C) prescribes reasonable exceptions and modifications for smaller districts to the
948 uniform system of accounting, budgeting, and reporting;

949 (ii) maintain the manual under Subsection (14)(a) so that it continues to reflect
950 generally accepted accounting principles;

951 (iii) conduct a continuing review and modification of procedures in order to improve
952 them;

953 (iv) prepare and supply each district with suitable budget and reporting forms; and

954 (v) prepare instructional materials, conduct training programs, and render other
955 services considered necessary to assist local districts and special service districts in

956 implementing the uniform accounting, budgeting, and reporting procedures; and

957 (b) continually analyze and evaluate the accounting, budgeting, and reporting practices
958 and experiences of specific local districts and special service districts selected by the state
959 auditor and make the information available to all districts.

960 (15) (a) The following records in the custody or control of the state auditor are
961 protected records under Title 63G, Chapter 2, Government Records Access and Management
962 Act:

963 (i) records that would disclose information relating to allegations of personal
964 misconduct, gross mismanagement, or illegal activity of a past or present governmental
965 employee if the information or allegation cannot be corroborated by the state auditor through
966 other documents or evidence, and the records relating to the allegation are not relied upon by
967 the state auditor in preparing a final audit report;

968 (ii) records and audit workpapers to the extent they would disclose the identity of a
969 person who during the course of an audit, communicated the existence of any waste of public
970 funds, property, or manpower, or a violation or suspected violation of a law, rule, or regulation
971 adopted under the laws of this state, a political subdivision of the state, or any recognized entity
972 of the United States, if the information was disclosed on the condition that the identity of the
973 person be protected;

974 (iii) before an audit is completed and the final audit report is released, records or drafts
975 circulated to a person who is not an employee or head of a governmental entity for their
976 response or information;

977 (iv) records that would disclose an outline or part of any audit survey plans or audit
978 program; and

979 (v) requests for audits, if disclosure would risk circumvention of an audit.

980 (b) The provisions of Subsections (15)(a)(i), (ii), and (iii) do not prohibit the disclosure
981 of records or information that relate to a violation of the law by a governmental entity or
982 employee to a government prosecutor or peace officer.

983 (c) The provisions of this Subsection (15) do not limit the authority otherwise given to
984 the state auditor to classify a document as public, private, controlled, or protected under Title
985 63G, Chapter 2, Government Records Access and Management Act.

986 (d) (i) As used in this Subsection (15)(d), "record dispute" means a dispute between the

987 state auditor and the subject of an audit performed by the state auditor as to whether the state
988 auditor may release a record, as defined in Section [63G-2-103](#), to the public that the state
989 auditor gained access to in the course of the state auditor's audit but which the subject of the
990 audit claims is not subject to disclosure under Title 63G, Chapter 2, Government Records
991 Access and Management Act.

992 (ii) The state auditor may submit a record dispute to the State Records Committee,
993 created in Section [63G-2-501](#), for a determination of whether the state auditor may, in
994 conjunction with the state auditor's release of an audit report, release to the public the record
995 that is the subject of the record dispute.

996 (iii) The state auditor or the subject of the audit may seek judicial review of a State
997 Records Committee determination under Subsection (15)(d)(ii), as provided in Section
998 [63G-2-404](#).

999 (16) If the state auditor conducts an audit of an entity that the state auditor has
1000 previously audited and finds that the entity has not implemented a recommendation made by
1001 the state auditor in a previous audit, the state auditor shall notify the Legislative Management
1002 Committee through its audit subcommittee that the entity has not implemented that
1003 recommendation.

1004 (17) (a) The state auditor shall review the policies and amendments to the policies of
1005 the following independent state entities:

1006 (i) independent corporations, to ensure compliance with Subsection [63E-2-109](#)(4),
1007 including:

1008 (A) the Military Installation Development Authority, to ensure compliance with
1009 Subsections [63H-1-202](#)(2)(b) and (c);

1010 (B) the Utah State Railroad Museum Authority, to ensure compliance with Subsection
1011 [63H-5-108](#)(1);

1012 (C) the Utah State Fair Corporation, to ensure compliance with Subsection
1013 [63H-6-103](#)(7); and

1014 (D) the Utah Capital Investment Corporation, to ensure compliance with Subsection
1015 [63N-6-412](#)(1);

1016 (ii) the Utah Dairy Commission, to ensure compliance with Subsection [4-22-4.5](#)(2);

1017 (iii) the School and Institutional Trust Lands Administration, to ensure compliance

1018 with Subsection 53C-1-201(3)(e);

1019 (iv) the Heber Valley Historic Railroad Authority, to ensure compliance with

1020 Subsection 63H-4-108(1); and

1021 (v) the Utah Communications Authority, to ensure compliance with Subsection

1022 63H-7a-803(2).

1023 (b) Once per calendar year, the state auditor shall review the results of the financial

1024 audits required in Sections 63H-1-704 and 63N-6-405 and Subsections 4-22-8(5),

1025 53C-1-201(9), 63E-2-110(3), 63H-4-108(2)(b), and 63H-5-108(2)(b).

1026 (c) The state auditor shall conduct a performance audit of each independent entity once
1027 every five years on a rolling basis.

1028 (d) Once per calendar year, the state auditor shall send to each independent entity a
1029 notice describing the:

1030 (i) governmental procedures to which the entity is subject or to which the policies of
1031 the entity are required to parallel, including the policies described in Subsection (17)(a);

1032 (ii) requirement to submit financial audit results identified in Subsection (17)(b); and

1033 (iii) state auditor's responsibilities under this Subsection (17).

1034 **Section 17. Coordinating H.B. 456 with H.B. 344 -- Technical renumbering and**
1035 **superseding substantive amendments.**

1036 If this H.B. 456 and H.B. 344, Utah Agriculture Code Amendments, both pass and

1037 become law, it is the intent of the Legislature that, when the Office of Legislative Research and

1038 General Counsel prepares the Utah Code database for publication, the amendments to Section

1039 4-22-9 in this bill supersede the amendments to Section 4-22-9 in H.B. 344 and that Section

1040 4-22-9 be renumbered to Section 4-22-301.