

HB0456S01 compared with HB0456

~~{deleted text}~~ shows text that was in HB0456 but was deleted in HB0456S01.

Inserted text shows text that was not in HB0456 but was inserted into HB0456S01.

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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;

HB0456S01 compared with HB0456

- ▶ 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.

Money Appropriated in this Bill:

None

Other Special Clauses:

~~{ None }~~ This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

- 4-22-4.5, as last amended by Laws of Utah 2008, Chapter 382
- 4-22-8, as last amended by Laws of Utah 2004, Chapter 128
- 4-22-9, as enacted by Laws of Utah 1979, Chapter 2
- ~~{ 49-11-201, as last amended by Laws of Utah 2014, Chapter 15 }~~
- { 53C-1-201, as last amended by Laws of Utah 2016, Chapter 193
- 63E-2-109, as last amended by Laws of Utah 2012, Chapter 347
- 63E-2-110, as last amended by Laws of Utah 2011, Chapter 342
- 63H-1-201, as last amended by Laws of Utah 2016, Chapter 371
- 63H-1-202, as last amended by Laws of Utah 2015, Chapter 377
- 63H-4-108, as last amended by Laws of Utah 2013, Chapter 220
- 63H-5-107, as renumbered and amended by Laws of Utah 2011, Chapter 370
- 63H-5-108, as last amended by Laws of Utah 2012, Chapter 347
- 63H-6-103, as last amended by Laws of Utah 2016, Chapter 301
- 63H-6-108, as last amended by Laws of Utah 2016, Third Special Session, Chapter 2
- 63H-7a-803, as last amended by Laws of Utah 2016, Chapter 123
- ~~{ 63H-8-204, as renumbered and amended by Laws of Utah 2015, Chapter 226 }~~
- ~~63H-8-406, as renumbered and amended by Laws of Utah 2015, Chapter 226~~
- { 63N-6-301, as last amended by Laws of Utah 2015, Chapter 420 and renumbered and amended by Laws of Utah 2015, Chapter 283

HB0456S01 compared with HB0456

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

Utah Code Sections Affected by Coordination Clause:

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

4-22-301, Utah Code Annotated 1953

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

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

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

(1) The commission is exempt from:

~~(1)~~ (a) Title 51, Chapter 5, Funds Consolidation Act;

~~(2)~~ (b) Title 51, Chapter 7, State Money Management Act;

~~(3)~~ (c) Title 63A, Utah Administrative Services Code;

~~(4)~~ (d) Title 63J, Chapter 1, Budgetary Procedures Act; and

~~(5)~~ (e) Title 67, Chapter 19, Utah State Personnel Management Act.

(2) The commission shall:

(a) adopt policies parallel to and consistent with:

(i) Title 51, Chapter 5, Funds Consolidation Act;

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

(iii) Title 63A, Utah Administrative Services Code;

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

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

(b) submit to the state auditor:

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

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

the amendments; and

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

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

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

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

HB0456S01 compared with HB0456

producers.

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

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

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

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

(3) The commission may deposit the proceeds of the assessment in one or more accounts in one or more banks approved by the state as depositories.

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

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

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

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

- (i) commissioner;
- (ii) commission; ~~[and]~~
- (iii) Division of Finance~~[-]~~; and
- (iv) state auditor; and

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

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

4-22-9. State disclaimer of liability.

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

Section 4. Section ~~{49-1}~~53C-1-201 is amended to read:

~~{~~49-11-201. Establishment of retirement office -- An independent state agency -- Office exemption -- Audits -- Disclaimer of state liability.

~~————~~(1) (a) There is established the Utah State Retirement Office, which may also be

HB0456S01 compared with HB0456

~~known and function as the Utah State Retirement Systems or the Utah Retirement Systems:~~

~~—— (b) The office shall administer the systems, plans, and programs and perform all other functions assigned to it under this title.~~

~~—— (2) (a) The office is an independent state agency.~~

~~—— (b) [It] The office is subject to legislative and executive department budgetary review and comment.~~

~~—— (3) The office may establish branch offices upon approval of the board.~~

~~—— (4) The board and office are exempt from those acts which are applicable to state and other governmental entities under this code.~~

~~—— (5) The board shall:~~

~~—— (a) adopt policies parallel to and consistent with:~~

~~—— (i) Title 51, Chapter 5, Funds Consolidation Act;~~

~~—— (ii) Title 51, Chapter 7, State Money Management Act;~~

~~—— (iii) Title 63A, Utah Administrative Services Code;~~

~~—— (iv) Title 63G, Chapter 6a, Utah Procurement Code;~~

~~—— (v) Title 63J, Chapter 1, Budgetary Procedures Act; and~~

~~—— (vi) Title 67, Chapter 19, Utah State Personnel Management Act;~~

~~—— (b) submit to the state auditor:~~

~~—— (i) copies of the policies no later than November 9, 2017; and~~

~~—— (ii) any subsequent amendments to the policies no later than 30 days after adoption of the amendments; and~~

~~—— (c) post copies of the policies on the website of the board or office.~~

~~—— (6) To ensure compliance with Subsection (5), the board and office are subject to performance and compliance audits by the state auditor under Subsection 67-3-1(17):~~

~~—— (7) Once per calendar year within 180 days after the fiscal year end, the board shall:~~

~~—— (a) obtain a financial audit of the office by a licensed accountant whom the board selects and the state auditor approves; and~~

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

~~—— (8) The state is not liable for the acts or omissions of the office or the office's officers, agents, or employees, including any obligation, expense, debt, or liability of the office.~~

~~—— Section 5. Section **53C-1-201** is amended to read:~~

HB0456S01 compared with HB0456

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

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

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

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

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

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

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

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

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

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

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

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

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

HB0456S01 compared with HB0456

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

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

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

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

(iii) The positions of director, deputy director, associate director, assistant director, legal counsel appointed under Section 53C-1-305, administrative assistant, and public affairs officer are exempt under Subsections 67-19-12(2) and 67-19-15(1).

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

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

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

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

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

HB0456S01 compared with HB0456

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

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

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

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

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

(g) (i) The administration is not subject to Subsection 63J-1-206(3)(f).

(ii) Before transferring appropriated funds between line items, the administration shall submit a proposal to the board for its approval.

(iii) If the board gives approval to a proposal to transfer appropriated funds between line items, the administration shall submit the proposal to the Legislative Executive Appropriations Committee for its review and recommendations.

(iv) The Legislative Executive Appropriations Committee may recommend:

(A) that the administration transfer the appropriated funds between line items;

(B) that the administration not transfer the appropriated funds between line items; or

(C) to the governor that the governor call a special session of the Legislature to supplement the appropriated budget for the administration.

(4) The administration is managed by a director of school and institutional trust lands appointed by a majority vote of the board of trustees with the consent of the governor.

(5) (a) The board of trustees shall provide policies for the management of the administration and for the management of trust lands and assets.

(b) The board shall provide policies for the ownership and control of Native American remains that are discovered or excavated on school and institutional trust lands in consultation with the Division of Indian Affairs and giving due consideration to Title 9, Chapter 9, Part 4, Native American Grave Protection and Repatriation Act. The director may make rules in

HB0456S01 compared with HB0456

accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement policies provided by the board regarding Native American remains.

(6) In connection with joint ventures and other transactions involving trust lands and minerals approved under Sections 53C-1-303 and 53C-2-401, the administration, with board approval, may become a member of a limited liability company under Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, as appropriate pursuant to Section 48-3a-1405 and is considered a person under Section 48-3a-102.

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

(8) The state is not liable for the acts or omissions of the administration or the administration's officers, agents, or employees, including any obligation, expense, debt, or liability of the administration.

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

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

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

Section ~~67~~5. Section **63E-2-109** is amended to read:

63E-2-109. State statutes.

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

- (a) Title 51, Chapter 5, Funds Consolidation Act;
- (b) Title 51, Chapter 7, State Money Management Act;
- (c) Title 63A, Utah Administrative Services Code;
- (d) Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- (e) Title 63G, Chapter 4, Administrative Procedures Act;
- (f) Title 63G, Chapter 6a, Utah Procurement Code;
- (g) Title 63J, Chapter 1, Budgetary Procedures Act;
- (h) Title 63J, Chapter 2, Revenue Procedures and Control Act; and
- (i) Title 67, Chapter 19, Utah State Personnel Management Act.

(2) Except as specifically modified in its authorizing statute, each independent

HB0456S01 compared with HB0456

corporation shall be subject to:

- (a) Title 52, Chapter 4, Open and Public Meetings Act; and
- (b) Title 63G, Chapter 2, Government Records Access and Management Act.
- (3) ~~[Each]~~ Subject to Subsection (4), each independent corporation board may adopt its

own policies and procedures governing its:

- (a) funds management;
- (b) audits; and
- (c) personnel.

- (4) (a) ~~{Each}~~ Except for the Utah Housing Corporation, created in Section 63H-8-201,

each independent corporation board shall:

(i) adopt policies parallel to and consistent with:

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

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

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

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

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

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

(ii) submit to the state auditor:

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

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

the amendments; and

(iii) post copies of the policies on the website of the board or corporation.

(b) To ensure compliance with this Subsection (4), each independent corporation board

is subject to performance and compliance audits by the state auditor under Subsection 67-3-1(17).

Section ~~{7}~~6. Section **63E-2-110** is amended to read:

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

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

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

(b) The money of an independent corporation is not required to be held in the custody

HB0456S01 compared with HB0456

of the state treasurer.

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

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

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

Section ~~8~~7. Section **63H-1-201** is amended to read:

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

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

(2) The authority is:

(a) an independent, nonprofit, separate body corporate and politic, with perpetual succession and statewide jurisdiction, whose purpose is to facilitate the development of military land in a project area;

(b) a political subdivision of the state; and

(c) a public corporation, as defined in Section 63E-1-102.

(3) The authority may:

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

(b) sue and be sued;

(c) enter into contracts generally;

(d) buy, obtain an option upon, or otherwise acquire any interest in real or personal property:

(i) in a project area; or

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

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

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

(i) in a project area; or

HB0456S01 compared with HB0456

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

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

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

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

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

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

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

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

(n) hire employees, including contract employees;

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

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

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

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

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

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

HB0456S01 compared with HB0456

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

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

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

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

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

Section ~~9~~8. Section **63H-1-202** is amended to read:

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

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

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

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

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

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

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

(b) The authority shall:

(i) adopt policies parallel to and consistent with:

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

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

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

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

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

HB0456S01 compared with HB0456

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

(ii) submit to the state auditor:

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

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

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

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

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

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

(i) if the military is the owner of land in a project area on which a condominium project is constructed, the military is not required to sign, execute, or record a declaration of a condominium project; and

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

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

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

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

Section ~~10~~9. Section **63H-4-108** is amended to read:

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

Disclaimer of state liability.

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

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

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

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

HB0456S01 compared with HB0456

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

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

(b) The authority shall:

(i) adopt policies parallel to and consistent with:

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

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

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

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

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

(ii) submit to the state auditor:

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

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

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

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

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

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

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

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

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

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

Section ~~{H}~~10. Section **63H-5-107** is amended to read:

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

HB0456S01 compared with HB0456

- (1) (a) An obligation or liability of the authority does not constitute:
- (i) a debt or liability of the state or of any of its political subdivisions; or
 - (ii) the loaning of credit of the state or of any of its political subdivisions.
- (b) An obligation or liability of the authority is payable only from money of the authority.
- (2) An obligation of the authority shall contain a statement to the effect:
- (a) that the authority is obligated to pay the obligation solely from the revenues or other money of the authority;
 - (b) that neither the state nor its political subdivisions are obligated to pay it; and
 - (c) that neither the faith and credit nor the taxing power of the state or any of its political subdivisions is pledged to the payment of the obligation.
- (3) (a) Expenses incurred in carrying out this chapter are payable solely from money of the authority provided under this chapter.
- (b) Nothing in this chapter authorizes the authority to incur indebtedness or liability on behalf of or payable by the state or any of its political subdivisions.
- (4) The state is not liable for the acts or omissions of the authority or the authority's officers, agents, or employees.

Section ~~{12}~~11. Section **63H-5-108** is amended to read:

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

- (1) (a) The authority is exempt from:
- ~~[(a)]~~ (i) Title 51, Chapter 5, Funds Consolidation Act;
 - ~~[(b)]~~ (ii) Title 63A, Chapter 1, Department of Administrative Services;
 - ~~[(c)]~~ (iii) Title 63G, Chapter 6a, Utah Procurement Code;
 - ~~[(d)]~~ (iv) Title 63J, Chapter 1, Budgetary Procedures Act; and
 - ~~[(e)]~~ (v) Title 67, Chapter 19, Utah State Personnel Management Act.
- (b) The authority shall:
- (i) adopt policies parallel to and consistent with:
 - (A) Title 51, Chapter 5, Funds Consolidation Act;
 - (B) Title 63A, Utah Administrative Services Code;
 - (C) Title 63G, Chapter 6a, Utah Procurement Code;
 - (D) Title 63J, Chapter 1, Budgetary Procedures Act; and

HB0456S01 compared with HB0456

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

(ii) submit to the state auditor;

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) The corporation shall:

(a) manage, supervise, and control:

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

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

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

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

(ii) publicize and promote the events; and

HB0456S01 compared with HB0456

- (iii) secure funds to cover the cost of the exhibits from:
 - (A) private contributions;
 - (B) public appropriations;
 - (C) admission charges; and
 - (D) other lawful means;
- (c) acquire and designate exposition sites;
- (d) use generally accepted accounting principles in accounting for the corporation's assets, liabilities, and operations;
- (e) seek corporate sponsorships for the state fair park or for individual buildings or facilities within the fair park;
- (f) work with county and municipal governments, the Salt Lake Convention and Visitor's Bureau, the Utah Travel Council, and other entities to develop and promote expositions and the use of the state fair park;
- (g) develop and maintain a marketing program to promote expositions and the use of the state fair park;
- (h) in accordance with provisions of this part, operate and maintain the state fair park, including the physical appearance and structural integrity of the state fair park and the buildings located at the state fair park;
 - (i) prepare an economic development plan for the state fair park;
 - (j) hold an annual exhibition that:
 - (i) is called the state fair or a similar name;
 - (ii) promotes and highlights agriculture throughout the state;
 - (iii) includes expositions of livestock, poultry, agricultural, domestic science, horticultural, floricultural, mineral and industrial products, manufactured articles, and domestic animals that, in the corporation's opinion will best stimulate agricultural, industrial, artistic, and educational pursuits and the sharing of talents among the people of Utah;
 - (iv) includes the award of premiums for the best specimens of the exhibited articles and animals;
 - (v) permits competition by livestock exhibited by citizens of other states and territories of the United States; and
 - (vi) is arranged according to plans approved by the board;

HB0456S01 compared with HB0456

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

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

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

(6) The corporation may:

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

(b) (i) participate in the state's Risk Management Fund created under Section 63A-4-201; or

(ii) procure insurance against any loss in connection with the corporation's property and other assets, including mortgage loans;

(c) receive and accept aid or contributions of money, property, labor, or other things of value from any source, including any grants or appropriations from any department, agency, or instrumentality of the United States or Utah;

(d) hold, use, loan, grant, and apply that aid and those contributions to carry out the purposes of the corporation, subject to the conditions, if any, upon which the aid and contributions were made;

(e) enter into management agreements with any person or entity for the performance of the corporation's functions or powers;

(f) establish whatever accounts and procedures as necessary to budget, receive, and disburse, account for, and audit all funds received, appropriated, or generated;

(g) subject to Subsection (8), lease any of the facilities at the state fair park;

(h) sponsor events as approved by the board; and

(i) enter into one or more agreements to develop the state fair park.

(7) (a) Except as provided in Subsection (7)(~~e~~)(d), as an independent agency of Utah, the corporation is exempt from:

HB0456S01 compared with HB0456

- (i) Title 51, Chapter 5, Funds Consolidation Act;
- (ii) Title 51, Chapter 7, State Money Management Act;
- (iii) Title 63A, Utah Administrative Services Code;
- (iv) Title 63G, Chapter 6a, Utah Procurement Code;
- (v) Title 63J, Chapter 1, Budgetary Procedures Act; and
- (vi) Title 67, Chapter 19, Utah State Personnel Management Act.

(b) The board shall:

(i) adopt policies parallel to and consistent with:

~~[(+)]~~ (A) Title 51, Chapter 5, Funds Consolidation Act;

~~[(+)]~~ (B) Title 51, Chapter 7, State Money Management Act;

~~[(+)]~~ (C) Title 63A, Utah Administrative Services Code;

~~[(+)]~~ (D) Title 63G, Chapter 6a, Utah Procurement Code; and

~~[(+)]~~ (E) Title 63J, Chapter 1, Budgetary Procedures Act[-];

(ii) submit to the state auditor:

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

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

(iii) post copies of the policies on the website of the board or corporation.

(c) To ensure compliance with Subsection (7)(b), the corporation is subject to performance and compliance audits by the state auditor under Subsection 67-3-1(17).

~~[(+)]~~ (d) The corporation shall comply with the legislative approval requirements for new facilities established in Subsection 63A-5-104(3).

(8) (a) Before the corporation executes a lease described in Subsection (6)(g) with a term of 10 or more years, the corporation shall:

(i) submit the proposed lease to the State Building Board for the State Building Board's approval or rejection; and

(ii) if the State Building Board approves the proposed lease, submit the proposed lease to the Executive Appropriations Committee for the Executive Appropriation Committee's review and recommendation in accordance with Subsection (8)(b).

(b) The Executive Appropriations Committee shall review a proposed lease submitted in accordance with Subsection (8)(a) and recommend to the corporation that the corporation:

HB0456S01 compared with HB0456

- (i) execute the proposed sublease; or
- (ii) reject the proposed sublease.

Section ~~{14}~~13. Section **63H-6-108** is amended to read:

63H-6-108. Operation of the state fair park -- Disclaimer of state liability.

- (1) The corporation shall:
 - (a) operate and maintain the state fair park in accordance with the facility maintenance standards approved by the State Building Board;
 - (b) pay for all costs associated with operating and maintaining the state fair park;
 - (c) obtain approval from the division before the corporation commences capital developments or capital improvements on the state fair park that involve:
 - (i) a construction project that costs more than \$250,000; or
 - (ii) the construction of a new building that costs more than \$1,000,000;
 - (d) obtain a building permit from the division before commencing an activity that requires a building permit;
 - (e) ensure that:
 - (i) any design plan related to the state fair park satisfies any applicable design standards established by the division or the State Building Board; and
 - (ii) construction performed on the state fair park satisfies any applicable construction standards established by the division or the State Building Board;
 - (f) for any new construction project on the state fair park that costs \$250,000 or more:
 - (i) notify the division before commencing the new construction project; and
 - (ii) coordinate with the division regarding review of design plans and construction management;
 - (g) obtain approval from the division before the corporation makes any alteration or addition to the water system, heating system, plumbing system, air conditioning system, or electrical system;
 - (h) obtain approval from the State Building Board before the corporation demolishes a building or facility on the state fair park;
 - (i) keep the state fair park fully insured to protect against loss or damage by fire, vandalism, or malicious mischief;
 - (j) in accordance with Subsection (3), at the corporation's expense, and for the mutual

HB0456S01 compared with HB0456

benefit of the division, maintain general public liability insurance in an amount equal to at least \$1,000,000 through one or more companies that are:

- (i) licensed to do business in the state;
- (ii) selected by the corporation; and
- (iii) approved by the division and the Division of Risk Management;

(k) ensure that the division is an additional insured with primary coverage on each insurance policy that the corporation obtains in accordance with this section;

(l) give the division notice at least 30 days before the day on which the corporation cancels any insurance policy that the corporation obtains in accordance with this section; and

(m) if any lien is recorded or filed against the state fair park as a result of an act or omission of the corporation, cause the lien to be satisfied or cancelled within 10 days after the day on which the corporation receives notice of the lien.

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

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

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

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

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

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

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

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

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

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

HB0456S01 compared with HB0456

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

- (i) authorizes the corporation to contract for the debt or obligation; and
- (ii) accepts liability or assumes responsibility for the debt or obligation.

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

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

Section ~~{15}~~14. Section **63H-7a-803** is amended to read:

63H-7a-803. Relation to certain acts -- Participation in Risk Management Fund --

Disclaimer of state liability.

(1) The Utah Communications Authority is exempt from:

(a) Title 63A, Utah Administrative Services Code, except as provided in Section 63A-4-205.5;

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

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

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

(2) (a) The board shall:

(i) adopt budgetary procedures, accounting, and personnel and human resource policies substantially similar to [those] the policies from which [they have been exempted in] the board is exempt under Subsection (1)[-];

(ii) submit to the state auditor:

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

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

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

(b) The authority, the board, and the committee members are subject to Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(c) The authority is subject to Title 52, Chapter 4, Open and Public Meetings Act.

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

HB0456S01 compared with HB0456

~~[(3)]~~ (4)(a) Subject to the requirements of Subsection 63E-1-304(2), the administration may participate in coverage under the Risk Management Fund created by Section 63A-4-201.

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

Section ~~{16}~~ 15. Section ~~{63H-8-204}~~ 63N-6-301 is amended to read:

~~{~~ ~~63H-8-204. Relation to certain acts:~~

~~_____ (1) (a) The corporation is exempt from:~~

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

~~_____ [(b)] (ii) Title 51, Chapter 7, State Money Management Act;~~

~~_____ [(c)] (iii) Title 63A, Utah Administrative Services Code;~~

~~_____ [(d)] (iv) Title 63G, Chapter 6a, Utah Procurement Code;~~

~~_____ [(e)] (v) Title 63J, Chapter 1, Budgetary Procedures Act;~~

~~_____ [(f)] (vi) Title 63J, Chapter 2, Revenue Procedures and Control Act; and~~

~~_____ [(g)] (vii) Title 67, Chapter 19, Utah State Personnel Management Act.~~

~~_____ (b) The corporation shall:~~

~~_____ (i) adopt policies parallel to and consistent with:~~

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

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

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

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

~~_____ (E) Title 63J, Chapter 1, Budgetary Procedures Act;~~

~~_____ (F) Title 63J, Chapter 2, Revenue Procedures and Control Act; and~~

~~_____ (G) Title 67, Chapter 19, Utah State Personnel Management Act;~~

~~_____ (ii) submit to the state auditor:~~

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

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

~~_____ (iii) post copies of the policies on the corporation's website.~~

~~_____ (2) The corporation shall comply with:~~

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

HB0456S01 compared with HB0456

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

~~_____ (3) To ensure compliance with this section, the corporation is subject to performance and compliance audits by the state auditor under Subsection 67-3-1(17).~~

~~_____ Section 17. Section **63H-8-406** is amended to read:~~

~~_____ **63H-8-406. Annual report to governor and Legislature -- Contents -- Audits.**~~

~~_____ (1) (a) The corporation shall, following the close of each fiscal year, submit, by October 1, an annual written report of its activities for the preceding year to the governor and the Retirement and Independent Entities Interim Committee:~~

~~_____ (b) Each report shall set forth a complete operating and financial statement of the corporation during the fiscal year it covers:~~

~~_____ (c) At least once each year, an independent certified public accountant shall audit the books and accounts of the corporation:~~

~~_____ (d) A complete copy of each annual audit report shall be:~~

~~_____ (i) included in the report to the governor and the Legislature under Subsection (2);~~

~~_____ (ii) submitted to the state auditor within 180 days after the fiscal year end;~~

~~_____ [(ii)] (iii) available for public inspection at the corporation's office; and~~

~~_____ [(iii)] (iv) made available to the public on the corporation's website.~~

~~_____ (2) The corporation shall, each fiscal year, submit a budget of its operations to the Legislature and the governor.~~

~~_____ (3) (a) The corporation shall form an audit committee consisting of no less than three trustees:~~

~~_____ (b) The audit committee has exclusive authority to:~~

~~_____ (i) select and engage the independent certified public accountant to audit the corporation; and~~

~~_____ (ii) supervise the audit.~~

~~_____ (4) The corporation shall provide additional information upon request by the governor, the Legislature, a legislative committee, the legislative auditor general, or the state auditor.~~

~~_____ Section 18. Section **63N-6-301** is amended to read:~~

~~‡~~ **63N-6-301. Utah Capital Investment Corporation -- Powers and purposes -- Disclaimer of the state liability.**

(1) (a) There is created an independent quasi-public nonprofit corporation known as the

HB0456S01 compared with HB0456

Utah Capital Investment Corporation.

(b) The corporation:

(i) may exercise all powers conferred on independent corporations under Section 63E-2-106;

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

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

Corporations Act, except as otherwise provided in this part.

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

(i) articles of incorporation; and

(ii) any amendment to its articles of incorporation.

(d) In addition to the articles of incorporation, the corporation may adopt bylaws and operational policies that are consistent with this chapter.

(e) Except as otherwise provided in this part, this part does not exempt the corporation from the requirements under state law which apply to other corporations organized under Title 63E, Chapter 2, Independent Corporations Act.

(2) The purposes of the corporation are to:

(a) organize the Utah fund of funds;

(b) select an investment fund allocation manager to make venture capital and private equity fund investments by the Utah fund of funds;

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

(d) execute the contract with the selected investment fund manager on behalf of the Utah fund of funds;

(e) receive funds paid by designated investors for the issuance of certificates by the board for private investment in the Utah fund of funds;

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

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

(3) The corporation may not:

(a) exercise governmental functions;

(b) have members;

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

HB0456S01 compared with HB0456

state; or

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

(4) (a) The obligations of the corporation are not obligations of the state or any political subdivision of the state within the meaning of any constitutional or statutory debt limitations, but are obligations of the corporation payable solely and only from the corporation's funds.

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

(5) The corporation may:

(a) engage consultants and legal counsel;

(b) expend funds;

(c) invest funds;

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

(e) enter into contracts;

(f) insure against loss;

(g) hire employees; and

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

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

(b) The annual report shall:

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

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

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

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

HB0456S01 compared with HB0456

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

(vi) include detailed information regarding:

(A) realized gains from investments and any realized losses; and

(B) unrealized gains and any unrealized losses based on the net present value of ongoing investments;

(vii) include detailed information regarding all yearly expenditures, including:

(A) administrative, operating, and financing costs;

(B) aggregate compensation information for full- and part-time employees, including benefit and travel expenses; and

(C) expenses related to the allocation manager;

(viii) include detailed information regarding all funding sources for administrative, operations, and financing expenses, including expenses charged by or to the Utah fund of funds, including management and placement fees;

(ix) review the progress of the investment fund allocation manager in implementing its investment plan and provide a general description of the investment plan;

(x) for each individual fund that the Utah fund of funds is invested in that represents at least 5% of the net assets of the Utah fund of funds, include the name of the fund, the total value of the fund, the fair market value of the Utah fund of funds' investment in the fund, and the percentage of the total value of the fund held by the Utah fund of funds;

(xi) include the number of companies in Utah where an investment was made from a fund that the Utah fund of funds is invested in, and provide an aggregate count of new full-time employees in the state added by all companies where investments were made by funds that the Utah fund of funds is invested in;

(xii) include an aggregate total value for all funds the Utah fund of funds is invested in, and an aggregate total amount of money invested in the state by the funds the Utah fund of funds is invested in;

(xiii) describe any redemption or transfer of a certificate issued under this part;

(xiv) include actual and estimated potential appropriations the Legislature will be required to provide as a result of redeemed certificates or tax credits during the following five

HB0456S01 compared with HB0456

years;

(xv) include an evaluation of the state's progress in accomplishing the purposes stated in Section 63N-6-102; and

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

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

Section ~~19~~16. Section **67-3-1** is amended to read:

67-3-1. Functions and duties.

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

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

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

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

(b) the revenues received or accrued;

(c) expenditures paid or accrued;

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

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

(3) (a) The state auditor shall:

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

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

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

(A) honesty and integrity in fiscal affairs;

(B) accuracy and reliability of financial statements;

HB0456S01 compared with HB0456

(C) effectiveness and adequacy of financial controls; and

(D) compliance with the law.

(b) If any state entity receives federal funding, the state auditor shall ensure that the audit is performed in accordance with federal audit requirements.

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

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

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

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

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

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

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

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

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

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

(i) has an elected auditor; and

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

(5) The state auditor shall administer any oath or affirmation necessary to the

HB0456S01 compared with HB0456

performance of the duties of the auditor's office, and may subpoena witnesses and documents, whether electronic or otherwise, and examine into any matter that the auditor considers necessary.

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

(7) The state auditor shall:

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

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

(ii) all debtors of the state;

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

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

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

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

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

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

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

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

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

HB0456S01 compared with HB0456

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

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

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

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

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

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

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

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

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

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

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

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

HB0456S01 compared with HB0456

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

(e) If the local taxing or fee-assessing unit adopts a budget in compliance with state law, the state auditor shall eliminate a limitation on accessing funds described in Subsection (8)(d).

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

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

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

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

(ii) meet debt service obligations; and

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

(11) The state auditor shall:

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

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

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

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

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

HB0456S01 compared with HB0456

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

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

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

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

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

(14) The state auditor shall:

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

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

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

(B) conforms with generally accepted accounting principles; and

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

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

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

HB0456S01 compared with HB0456

(iv) prepare and supply each district with suitable budget and reporting forms; and
(v) prepare instructional materials, conduct training programs, and render other services considered necessary to assist local districts and special service districts in implementing the uniform accounting, budgeting, and reporting procedures; and

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

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

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

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

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

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

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

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

(c) The provisions of this Subsection (15) do not limit the authority otherwise given to

HB0456S01 compared with HB0456

the state auditor to classify a document as public, private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

(d) (i) As used in this Subsection (15)(d), "record dispute" means a dispute between the state auditor and the subject of an audit performed by the state auditor as to whether the state auditor may release a record, as defined in Section 63G-2-103, to the public that the state auditor gained access to in the course of the state auditor's audit but which the subject of the audit claims is not subject to disclosure under Title 63G, Chapter 2, Government Records Access and Management Act.

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

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

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

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

(i) independent corporations, to ensure compliance with Subsection 63E-2-109(4), including:

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

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

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

(D) the Utah ~~Housing~~ Capital Investment Corporation, to ensure compliance with

HB0456S01 compared with HB0456

Subsection ~~63H-8-204(1); and~~

~~(E) the Utah Capital Investment Corporation, to ensure compliance with Subsection 63N-6-412(1);~~

~~63N-6-412(1);~~

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

~~(iii) the Utah State Retirement Office, to ensure compliance with Subsection 49-11-201(4);~~

~~(iv)~~ ~~iii~~ the School and Institutional Trust Lands Administration, to ensure compliance with Subsection 53C-1-201(3)(e);

~~(v)~~ ~~iv~~ the Heber Valley Historic Railroad Authority, to ensure compliance with Subsection 63H-4-108(1); and

~~(vi)~~ ~~v~~ the Utah Communications Authority, to ensure compliance with Subsection 63H-7a-803(2).

(b) Once per calendar year, the state auditor shall review the results of the financial audits required in Sections 63H-1-704 and 63N-6-405 and Subsections 4-22-8(5),

~~49-11-201(7), 53C-1-201(9), 63E-2-110(3), 63H-4-108(2)(b), and 63H-5-108(2)(b)~~ ~~), and 63H-8-406(1)(d)~~.

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

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

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

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

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

†

Legislative Review Note

~~†~~ ~~Section 17. Coordinating H.B. 456 with H.B. 344 -- Technical renumbering and~~

HB0456S01 compared with HB0456

superseding substantive amendments.

If this H.B. 456 and H.B. 344, Utah Agriculture Code Amendments, both pass and become law, it is the intent of the Legislature that, when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication, the amendments to Section 4-22-9 in this bill supersede the amendments to Section 4-22-9 in H.B. 344 and that Section 4-22-9 be renumbered to Section 4-22-301.