

Representative Ronda Rudd Menlove proposes the following substitute bill:

NONPROFIT ENTITY RECEIPT OF GOVERNMENT MONEY

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ronda Rudd Menlove

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses nonprofit entity receipt of state money.

Highlighted Provisions:

This bill:

- ▶ addresses audits of nonprofit entities;
- ▶ requires written agreements for grants to nonprofit entities;
- ▶ enacts the Nonprofit Entity Receipt of State Money Act, including:
 - defining terms;
 - imposing requirements on a nonprofit entity's receipt of state money; ~~H→~~ **and**

~~[—•—requiring reporting to the Utah Public Finance website; and] ←H~~

• authorizing a state entity to seek return of state money if the nonprofit entity fails to comply with the requirements; and

- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



26 AMENDS:

27 51-2a-102, as last amended by Laws of Utah 2007, Chapter 170

28 ENACTS:

29 51-2a-204, Utah Code Annotated 1953

30 63J-9-101, Utah Code Annotated 1953

31 63J-9-102, Utah Code Annotated 1953

32 63J-9-201, Utah Code Annotated 1953

33 63J-9-202, Utah Code Annotated 1953

34 ~~H→ [63J-9-203, Utah Code Annotated 1953] ←H~~



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

37 Section 1. Section 51-2a-102 is amended to read:

38 **51-2a-102. Definitions.**

39 As used in this chapter:

40 (1) "Accounting reports" means an audit, a review, a compilation, or a fiscal report.

41 (2) "Audit" means an examination that:

42 (a) analyzes the accounts of all officers of the entity having responsibility for the care,
43 management, collection, or disbursement of money belonging to it or appropriated by law or
44 otherwise acquired for its use or benefit;

45 (b) is performed in accordance with generally accepted government auditing standards,
46 or for nonprofit corporations described in Subsection (6)(f) in accordance with generally
47 accepted accounting principles and the Unified Chart of Accounts; and

48 (c) conforms to the uniform classification of accounts established or approved by the
49 state auditor or any other classification of accounts established by any federal government
50 agency.

51 (3) "Audit report" means:

52 (a) the financial statements presented in conformity with generally accepted accounting
53 principles;

54 (b) the auditor's opinion on the financial statements;

55 (c) a statement by the auditor expressing positive assurance of compliance with state
56 fiscal laws identified by the state auditor;

119 irrespective of the one or more names by which the codes of rules are designated.

120 (2) "Nonprofit entity" means an entity that:

121 (a) is operated primarily for a scientific purpose, educational purpose, religious
122 purpose, charitable purpose, or similar purpose in the public interest;

123 (b) is not organized primarily for profit; and

124 (c) no part of the net earnings of which inures to the benefit of any private shareholder
125 or individual holding an interest in the entity.

126 (3) "State entity" means a department, commission, board, council, agency, institution,
127 officer, corporation, fund, division, office, committee, authority, laboratory, library, unit,
128 bureau, panel, or other administrative unit of the state.

129 (4) "State money" means money that is owned, held, or administered by a state entity
130 and derived from state fee or tax revenues.

131 Section 5. Section **63J-9-201** is enacted to read:

132 **Part 2. Provision of State Money**

133 **63J-9-201. Conditions for providing state grant money to a nonprofit entity.**

134 A state entity may not provide a nonprofit entity state money through a grant, including
135 a pass through funding grant, unless:

136 (1) the state entity enters into a written agreement with the nonprofit entity;

137 (2) the written agreement described in Subsection (1) requires the nonprofit entity to
138 provide the state entity an itemized report at least annually detailing the expenditure of the state
139 money;

140 (3) at the time of receipt of the state money the nonprofit entity has:

141 (a) bylaws that provide for:

142 (i) the financial oversight of the state money; and

143 (ii) compliance with state laws related to the state money;

144 (b) procedures for the governing board of the nonprofit entity to designate an
145 administrator who manages the state money; and

146 (c) procedures for the governing board to dismiss the administrator described by
147 Subsection (3)(b) ~~H~~→ [;

148 ~~——— (4) before the state money is released to the nonprofit entity, the nonprofit entity~~
149 ~~submits to the state entity:~~

150 ~~_____ (a) a form signed by the board members that certifies that the board members:~~
 151 ~~_____ (i) have read and understand the nonprofit entity's bylaws; and~~
 152 ~~_____ (ii) have had explained to them the benefit of insurance covering the activities of the~~
 153 ~~board; and~~
 154 ~~_____ (b) (i) a form signed by the chief executive officer, executive director, or board~~
 155 ~~president that certifies that the board understands basic board responsibilities, including:~~
 156 ~~_____ (A) determining the mission of the nonprofit entity;~~
 157 ~~_____ (B) hiring and, if needed, dismissing the chief executive officer or executive director;~~
 158 ~~_____ (C) planning and evaluating;~~
 159 ~~_____ (D) recruiting and orienting new board members;~~
 160 ~~_____ (E) assessing board performance;~~
 161 ~~_____ (F) providing financial oversight;~~
 162 ~~_____ (G) ensuring integrity and accountability; or~~
 163 ~~_____ (H) ensuring adequate resources; or~~
 164 ~~_____ (ii) a standard of ethics document adopted by the nonprofit entity] ←H .~~
 165 H→ [Section 6. Section 63J-9-202 is enacted to read:
 166 ~~_____ 63J-9-202. Utah Public Finance Website reporting:~~
 167 ~~_____ In accordance with 63A-3-402, a state entity shall report on the Utah Public Finance~~
 168 ~~Website the state money provided to a nonprofit entity in accordance with this part.] ←H~~
 169 Section H→ [7] 6 ←H . Section H→[3J-9-6-203] 63J-9-202 ←H is enacted to read:
 170 H→ [63J-9-203] 63J-9-202 ←H . Nonprofit entity's return of state money.
 171 The state entity that provides a nonprofit entity state money in accordance with Section
 172 63J-9-201 may require the nonprofit entity to return to the state entity an amount of money that
 173 is equal to the state money that is expended in violation of Section 63J-9-201 if the nonprofit
 174 entity fails to comply with the written agreement, bylaws, and procedures required by Section
 175 63J-9-201 during the time period that the nonprofit entity holds or expends the state money.