

1                   **JOINT RULES RESOLUTION ON PERFORMANCE NOTES**

2                                   2015 GENERAL SESSION

3                                   STATE OF UTAH

4                           **Chief Sponsor: Rebecca Chavez-Houck**

5                                   Senate Sponsor: Luz Escamilla

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7   **LONG TITLE**

8   **Committee Note:**

9           The Government Operations Interim Committee recommended this bill.

10 **General Description:**

11           This joint rules resolution of the Legislature modifies provisions related to performance  
12 review notes.

13 **Highlighted Provisions:**

14           This resolution:

15           ▸ requires the legislative fiscal analyst to review and analyze legislation to determine  
16 if it creates a new program or a new agency within one business day instead of three  
17 business days of receiving the legislation; and

18           ▸ makes technical changes.

19 **Special Clauses:**

20           None

21 **Legislative Rules Affected:**

22 AMENDS:

23           **JR4-2-404**

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

26           Section 1. **JR4-2-404** is amended to read:

27           **JR4-2-404. Performance review notes -- Review of performance measures.**



- 28 (1) As used in this section:
- 29 (a) (i) "New agency" means:
- 30 (A) a state governmental entity that did not previously exist;
- 31 (B) a governmental entity that requires a new appropriation for new funding;
- 32 (C) a governmental entity that is modified by legislation to add significant services or
- 33 benefits that were not previously offered by the governmental entity; or
- 34 (D) a governmental entity that is modified by legislation to substantially expand the
- 35 scope of individuals or entities that are entitled to receive the services or benefits offered by the
- 36 governmental entity.
- 37 (ii) "New agency" does not mean a governmental entity that has been renamed or
- 38 moved to another organizational position within that branch of government unless the
- 39 governmental entity meets the criteria in Subsection (1)(a)(i)(C) or (D).
- 40 (b) (i) "New program" means a program:
- 41 (A) created by statute that did not previously exist;
- 42 (B) that requires a new appropriation or an increased appropriation for the purpose of
- 43 adding significant services or benefits that were not previously offered;
- 44 (C) that is modified by legislation to add significant services or benefits that were not
- 45 previously offered by the program; or
- 46 (D) that is modified by legislation to substantially expand the scope of individuals or
- 47 entities that are entitled to receive the services or benefits offered by the program.
- 48 (ii) "New program" does not mean a program that has been renamed or moved to
- 49 another organizational position within that branch of government unless the governmental
- 50 entity meets the criteria in Subsection (1)(b)(i)(C) or (D).
- 51 (c) "Performance note" means the statement of performance measures and information
- 52 that may be required to be printed with certain legislation according to the requirements of this
- 53 rule.
- 54 (2) (a) When the legislative fiscal analyst receives the electronic copy of approved
- 55 legislation from the Office of Legislative Research and General Counsel, the legislative fiscal
- 56 analyst shall, within [~~three business days~~] one business day, review and analyze the legislation
- 57 to determine if it creates a new program or a new agency.
- 58 (b) If the legislative fiscal analyst determines that the legislation creates a new agency

59 or a new program, the legislative fiscal analyst shall:

60 (i) notify the sponsor of the legislation that the legislation qualifies for a performance  
61 note;

62 (ii) notify the governmental entity that will supervise the new agency, or the  
63 governmental entity that will administer the new program, that the governmental entity must  
64 submit a performance note that meets the requirements of Subsection (6) to the legislative  
65 fiscal analyst within three business days; and

66 (iii) prepare a notice that contains the information required by Subsection (2)(c) and  
67 print the notice with the legislation.

68 (c) The notice shall:

69 (i) disclose that a performance note is required, disclose the name of the governmental  
70 entity required to provide the performance note, and disclose the date on which the  
71 performance note is to be provided by the governmental entity; or

72 (ii) disclose that a performance note is not required because the legislation does not  
73 create a new program or new agency.

74 (d) (i) The legislative fiscal analyst may extend the deadline for the governmental  
75 entity's submission of the performance note if:

76 (A) the governmental entity requests that the deadline be extended to a date certain in  
77 writing before the performance note is due; and

78 (B) the sponsor of the legislation agrees to extend the deadline.

79 (ii) If the deadline is extended, the legislative fiscal analyst shall indicate the extended  
80 deadline as part of the performance note that is ultimately printed with the legislation.

81 (3) If the sponsor of the legislation disputes the legislative fiscal analyst's  
82 determination as to whether a performance note is required, the sponsor shall contact the  
83 legislative fiscal analyst to discuss that disagreement and provide evidence, data, or other  
84 information to support a different determination.

85 (4) (a) (i) When a governmental entity provides a performance note to the legislative  
86 fiscal analyst, the legislative fiscal analyst shall provide a copy of the performance note to the  
87 sponsor.

88 (ii) The sponsor of the legislation shall either approve the release of the performance  
89 note or reject the performance note.

90 (b) If the sponsor approves the performance note provided by the governmental entity,  
91 the legislative fiscal analyst shall print the performance note with the legislation.

92 (c) If the sponsor rejects the performance note provided by the governmental entity, the  
93 legislative fiscal analyst shall print the following with the legislation:

94 (i) the performance note provided by the governmental entity, with a notation that the  
95 sponsor rejected the submission; and

96 (ii) if the sponsor provides an alternative performance note to the legislative fiscal  
97 analyst within three business days of receiving the performance note, the alternative  
98 performance note, with a notation that the sponsor provided the alternative note due to the  
99 sponsor's rejection of the governmental entity's submission.

100 (5) If the governmental entity does not provide a performance note by the submission  
101 deadline, the legislative fiscal analyst shall print a performance note with the legislation that  
102 indicates only that the governmental entity did not submit performance measures by the  
103 submission deadline.

104 (6) A performance note shall contain the following information:

105 (a) the name of the governmental entity submitting the performance note, as applicable;

106 (b) the names and titles of the individuals who prepared the performance note; and

107 (c) a statement of performance measures that:

108 (i) explains the purpose and duties of the new program or agency;

109 (ii) lists the services that will be provided by the new program or agency;

110 (iii) lists the goals and proposed impacts that the new program or agency intends to  
111 achieve within one, two, and three years;

112 (iv) lists the resources and steps required to achieve the goals and proposed impacts;

113 (v) lists the benchmarks that the new program or agency will monitor to measure  
114 progress toward the goals and outcome;

115 (vi) lists the performance measures that will be used to evaluate progress toward the  
116 goals and proposed impacts; and

117 (vii) states how information on progress and performance measures will be gathered in  
118 a reliable, objective fashion.

119 (7) The performance note is not an official part of the legislation.

120 (8) After legislation that creates a new program or a new agency has gone into effect,

121 the legislative auditor general shall, subject to the procedures and requirements of Utah Code  
122 Section 36-12-15:

123 (a) provide an outline of best practices to the governmental entity that administers the  
124 new program or to the new agency;

125 (b) include in the outline information to assist that governmental entity or new agency  
126 with the creation of:

127 (i) policies that promote best practices;

128 (ii) performance measures; and

129 (iii) data collection procedures; and

130 (c) for a new program or a new agency that was created by legislation where the  
131 governmental entity failed to provide a performance note:

132 (i) provide a notice to the governmental entity that administers the new program or to  
133 the new agency that the governmental entity or agency is required to submit a performance note  
134 to the legislative auditor general within 30 calendar days of the date of the notice;

135 (ii) retain the performance note that is received from the governmental entity or new  
136 agency and forward a copy of the note to:

137 (A) the primary sponsor of the legislation;

138 (B) the opposite house sponsor of the legislation;

139 (C) the president of the Senate and speaker of the House; and

140 (D) the Senate minority leader and House minority leader; and

141 (iii) if the governmental entity or new agency fails to provide a performance review  
142 note within the required deadline, provide notice to those listed in Subsection (8)(c)(ii) that a  
143 performance note was requested from, but was not received from, the governmental entity that  
144 administers the new program or the new agency.

145 (9) The legislative auditor general may use the performance note in its review of new  
146 programs and agencies under Utah Code Section 36-12-15.

**Legislative Review Note**  
**as of 11-3-14 11:03 AM**

**Office of Legislative Research and General Counsel**