

**FISCAL REQUIREMENTS FOR LOCAL GOVERNMENTS AND
NONPROFITS**

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: Sophia M. DiCaro

LONG TITLE

General Description:

This bill modifies provisions related to fiscal requirements for local governments and nonprofits.

Highlighted Provisions:

This bill:

- ▶ modifies definitions;
- ▶ repeals requirement of writing for grants to nonprofit entities;
- ▶ requires different levels of review for certain nonprofit corporations' financial information;
- ▶ requires reporting under certain circumstances;
- ▶ repeals requirements related to nonprofit entities receipt of state money by way of a grant, including a state agency's ability to seek return of state money if the nonprofit entity did not comply with certain requirements; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



AMENDS:

51-2a-102, as last amended by Laws of Utah 2014, Chapter 341

51-2a-301, as last amended by Laws of Utah 2008, Chapter 382

ENACTS:

51-2a-201.5, Utah Code Annotated 1953

REPEALS:

51-2a-204, as enacted by Laws of Utah 2014, Chapter 341

63J-9-101, as enacted by Laws of Utah 2014, Chapter 341

63J-9-102, as enacted by Laws of Utah 2014, Chapter 341

63J-9-201, as enacted by Laws of Utah 2014, Chapter 341

63J-9-202, as enacted by Laws of Utah 2014, Chapter 341

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

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

51-2a-102. Definitions.

As used in this chapter:

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

(2) "Audit" means an examination that:

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

~~[(b)]~~ (a) is performed in accordance with generally accepted government auditing standards, or for nonprofit corporations described in Subsection (6)(f), in accordance with generally accepted auditing standards; and

~~[(c)]~~ (b) conforms to the uniform classification of accounts established or approved by the state auditor or any other classification of accounts established by any federal government agency.

(3) "Audit report" means:

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

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

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

(d) a copy of the auditor's letter to management that identifies any material weakness in internal controls discovered by the auditor and other financial issues related to the expenditure of funds received from federal, state, or local governments to be considered by management; and

(e) management's response to the specific recommendations.

(4) "Compilation" means information presented in the form of financial statements presented in conformity with generally accepted accounting principles that are the representation of management without the accountant undertaking to express any assurances on the statements.

(5) "Fiscal report" means providing information detailing revenues and expenditures of all funds ~~[using forms provided]~~ in a format prescribed by the state auditor.

(6) "Governing board" means:

(a) the governing board of each political subdivision;

(b) the governing board of each interlocal organization having the power to tax or to expend public funds;

(c) the governing board of any local mental health authority established under the authority of Title 62A, Chapter 15, Substance Abuse and Mental Health Act;

(d) the governing board of any substance abuse authority established under the authority of Title 62A, Chapter 15, Substance Abuse and Mental Health Act;

(e) the governing board of any area agency established under the authority of Title 62A, Chapter 3, Aging and Adult Services;

(f) the governing board of any nonprofit corporation that receives~~[:]~~ an amount of money requiring an accounting report under Section 51-2a-201.5;

~~[(i) at least 50% of its funds from federal, state, and local government entities through contracts; or]~~

~~[(ii) an amount from state entities that is equal to or exceeds the amount specified in Subsection 51-2a-201(1) that would require an audit to be made by a competent certified public accountant;]~~

(g) the governing board of any other entity established by a local governmental unit

that receives tax exempt status for bonding or taxing purposes; and

(h) in municipalities organized under an optional form of municipal government, the municipal legislative body.

(7) "Review" means performing inquiry and analytical procedures that provide the accountant with a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the financial statements for them to be in conformity with generally accepted accounting principles.

~~[(8) "State entity" means a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.]~~

Section 2. Section **51-2a-201.5** is enacted to read:

51-2a-201.5. Accounting reports required -- Reporting to state auditor.

(1) As used in this section:

(a) (i) "Federal pass through money" means federal money received by a recipient government to transfer or spend on behalf of a nonprofit corporation.

(ii) "Federal pass through money" does not include money used to buy goods or services from a vender.

(b) "Local money" does not include money used to buy goods or services from a vender.

(c) "State money" does not include money used to buy goods or services from a vender.

(2) (a) The governing board of a nonprofit corporation whose revenues or expenditures of federal pass through money, state money, and local money is \$750,000 or more shall cause an audit to be made of its accounts by an independent certified public accountant.

(b) The governing board of a nonprofit corporation whose revenues or expenditures of federal pass through money, state money, and local money is at least \$350,000 but less than \$750,000 shall cause a review to be made of its accounts by an independent certified public accountant.

(c) The governing board of a nonprofit corporation whose revenues or expenditures of federal pass through money, state money, and local money is at least \$100,000 but less than \$350,000 shall cause a compilation to be made of its accounts by an independent certified public accountant.

(d) The governing board of a nonprofit corporation whose revenues or expenditures of federal pass through money, state money, and local money is less than \$100,000 but greater than \$25,000 shall cause a fiscal report to be made in a format prescribed by the state auditor.

(3) A nonprofit corporation described in Subsection 51-2a-102(6)(f) shall provide the state auditor a copy of an accounting report prepared under this section within six months of the end of the nonprofit corporation's fiscal year.

(4) (a) A state agency that disburses money to a nonprofit corporation shall enter into a written agreement with the nonprofit corporation that requires the nonprofit corporation to annually disclose whether:

(i) the nonprofit corporation met or exceeded the dollar amounts listed in Subsection (2) in the previous fiscal year of the nonprofit corporation; or

(ii) it anticipates meeting or exceeding the dollar amounts listed in Subsection (2) in the fiscal year the money is disbursed.

(b) If the nonprofit corporation discloses to the state agency that it meets or exceeds the dollar amounts as described in Subsection (4)(a), the state agency shall notify the state auditor.

Section 3. Section **51-2a-301** is amended to read:

51-2a-301. State auditor responsibilities.

(1) Except for political subdivisions that do not receive or expend public funds, the state auditor shall adopt guidelines, qualifications criteria, and procurement procedures for use in the procurement of audit services for all entities that are required by Section 51-2a-201 to cause an accounting report to be made.

(2) The state auditor shall follow the notice, hearing, and publication requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) The state auditor shall:

(a) review the accounting report submitted to ~~him~~ the state auditor under Section 51-2a-201; and

(b) if necessary, conduct additional inquiries or examinations of financial statements of the entity submitting that information.

(4) The governing board of each entity required by Section 51-2a-201 to submit an accounting report to the state auditor's office shall comply with the guidelines, criteria, and procedures established by the state auditor.

(5) Each fifth year, the state auditor shall:

(a) review the dollar criteria established in Section 51-2a-201 to determine if they need to be increased or decreased; and

(b) if the state auditor determines that they need to be increased or decreased, notify the Legislature of that need.

(6) (a) The state auditor may require a higher level of accounting report than is required under Section 51-2a-201.

(b) The state auditor shall:

(i) develop criteria under which a higher level of accounting report may be required; and

(ii) provide copies of those criteria to entities required to analyze and report under Section 51-2a-201.

(7) This section does not apply to a nonprofit corporation that submits an accounting report under Section 51-2a-201.5.

Section 4. Repealer.

This bill repeals:

Section 51-2a-204, **Grants to nonprofit corporations -- Reporting to the state auditor.**

Section 63J-9-101, **Title.**

Section 63J-9-102, **Definitions.**

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

Section 63J-9-202, **Nonprofit entity's return of state money.**

Legislative Review Note
as of 1-30-15 3:08 PM

Office of Legislative Research and General Counsel