

1 **JOINT RULES RESOLUTION ON PERFORMANCE NOTES**

2 2016 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Lyle W. Hillyard**

5 House Sponsor: Dean Sanpei

6

7 **LONG TITLE**

8 **General Description:**

9 This joint resolution amends joint legislative rules addressing performance notes.

10 **Highlighted Provisions:**

11 This resolution:

- 12 ▶ provides for notice when a performance note is not needed for a piece of legislation;
 - 13 ▶ provides for notice when a performance note is required for a piece of legislation
- 14 and what is to be included in the notice; and
- 15 ▶ makes technical changes.

16 **Special Clauses:**

17 None

18 **Legislative Rules Affected:**

19 AMENDS:

20 **JR4-2-404**

21

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

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

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

25 (1) As used in this section:

26 (a) (i) "New agency" means:

27 (A) a state governmental entity that did not previously exist;



- 28 (B) a governmental entity that requires a new appropriation for new funding;
- 29 (C) a governmental entity that is modified by legislation to add significant services or
- 30 benefits that were not previously offered by the governmental entity; or
- 31 (D) a governmental entity that is modified by legislation to substantially expand the
- 32 scope of individuals or entities that are entitled to receive the services or benefits offered by the
- 33 governmental entity.
- 34 (ii) "New agency" does not mean a governmental entity that has been renamed or
- 35 moved to another organizational position within that branch of government unless the
- 36 governmental entity meets the criteria in Subsection (1)(a)(i)(C) or (D).
- 37 (b) (i) "New program" means a program:
- 38 (A) created by statute that did not previously exist;
- 39 (B) that requires a new appropriation or an increased appropriation for the purpose of
- 40 adding significant services or benefits that were not previously offered;
- 41 (C) that is modified by legislation to add significant services or benefits that were not
- 42 previously offered by the program; or
- 43 (D) that is modified by legislation to substantially expand the scope of individuals or
- 44 entities that are entitled to receive the services or benefits offered by the program.
- 45 (ii) "New program" does not mean a program that has been renamed or moved to
- 46 another organizational position within that branch of government unless the governmental
- 47 entity meets the criteria in Subsection (1)(b)(i)(C) or (D).
- 48 (c) "Performance note" means the statement of performance measures and information
- 49 that may be required to be printed with certain legislation according to the requirements of this
- 50 rule.
- 51 (2) (a) When the legislative fiscal analyst receives the electronic copy of approved
- 52 legislation from the Office of Legislative Research and General Counsel, the legislative fiscal
- 53 analyst shall, within one business day, review and analyze the legislation to determine if it
- 54 creates a new program or a new agency.
- 55 (b) If the legislative fiscal analyst determines that the legislation does not create a new
- 56 agency or a new program, the legislative fiscal analyst shall print a performance note with the
- 57 legislation that, notwithstanding Subsection (6), indicates only that the legislation does not
- 58 create a new agency or a new program.

59 ~~[(b)]~~ (c) If the legislative fiscal analyst determines that the legislation creates a new
60 agency or a new program, the legislative fiscal analyst shall:

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

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

67 (iii) prepare a notice ~~[that contains the information required by Subsection (2)(c) and~~
68 ~~print the notice with the legislation.]~~ disclosing:

69 ~~[(c) The notice shall:]~~

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

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

75 (A) that a performance note is required;

76 (B) the name of the governmental entity required to provide the performance note; and

77 (C) the date on which the performance note is to be provided by the governmental
78 entity; and

79 (iv) print the notice with the legislation.

80 (d) ~~[(†)]~~ The legislative fiscal analyst may extend the deadline for the governmental
81 entity's submission of the performance note if:

82 ~~[(A)]~~ (i) the governmental entity requests that the deadline be extended to a date certain
83 in writing before the performance note is due; and

84 ~~[(B)]~~ (ii) the sponsor of the legislation agrees to extend the deadline.

85 ~~[(ii) If the deadline is extended, the legislative fiscal analyst shall indicate the extended~~
86 ~~deadline as part of the performance note that is ultimately printed with the legislation.]~~

87 (3) If the sponsor of the legislation disputes the legislative fiscal analyst's
88 determination as to whether a performance note is required, the sponsor shall contact the
89 legislative fiscal analyst to discuss that disagreement and provide evidence, data, or other

90 information to support a different determination.

91 (4) (a) (i) When a governmental entity provides a performance note to the legislative
92 fiscal analyst, the legislative fiscal analyst shall provide a copy of the performance note to the
93 sponsor.

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

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

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

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

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

106 (5) If the governmental entity does not provide a performance note by the submission
107 deadline, the legislative fiscal analyst shall print a performance note with the legislation that
108 indicates only that the governmental entity did not submit performance measures by the
109 submission deadline.

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

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

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

113 (c) a statement of performance measures that:

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

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

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

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

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

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

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

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

126 (8) After legislation that creates a new program or a new agency has gone into effect,
127 the legislative auditor general shall, subject to the procedures and requirements of Utah Code
128 Section 36-12-15:

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

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

133 (i) policies that promote best practices;

134 (ii) performance measures; and

135 (iii) data collection procedures; and

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

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

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

143 (A) the primary sponsor of the legislation;

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

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

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

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

151 (9) The legislative auditor general may use the performance note in its review of new

152 programs and agencies under Utah Code Section [36-12-15](#).

Legislative Review Note
Office of Legislative Research and General Counsel