

SB0028S01 compared with SB0028

~~{deleted text}~~ shows text that was in SB0028 but was deleted in SB0028S01.

Inserted text shows text that was not in SB0028 but was inserted into SB0028S01.

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Representative Craig Hall proposes the following substitute bill:

LOCAL GOVERNMENT AND LIMITED PURPOSE ENTITY

REGISTRY

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Deidre M. Henderson

House Sponsor: ~~{_____}~~ Craig Hall

LONG TITLE

~~{Committee Note:~~

~~_____The Political Subdivisions Interim Committee recommended this bill.~~

~~{General Description:~~

This bill provides for the creation of a registry of local government and limited purpose entities.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires local government entities and limited purpose entities to register with the lieutenant governor;

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- ▶ requires the lieutenant governor to:
 - create a registry of local government entities and limited purpose entities;
 - establish registration and renewal fees to create, administer, and maintain the registry; and
 - send certain notices regarding compliance with registry requirements;
- ▶ ~~requires~~ allows the state auditor to ~~do~~:
 - withhold certain state funds and property tax disbursements if an entity does not comply with registry requirements; and
 - ~~do~~ allows the state auditor to ~~do~~ prohibit access to certain money if an entity does not comply with registry requirements;
- ▶ increases the state auditor's enforcement authority; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-13-203, as last amended by Laws of Utah 2015, Chapter 265

17B-1-103, as last amended by Laws of Utah 2014, Chapter 377

17B-1-641, as last amended by Laws of Utah 2017, Chapter 11

17D-1-103, as last amended by Laws of Utah 2014, Chapter 357

17D-2-103, as enacted by Laws of Utah 2008, Chapter 360

17D-3-103, as enacted by Laws of Utah 2008, Chapter 360

26A-1-108, as last amended by Laws of Utah 2002, Chapter 249

35A-8-402, as renumbered and amended by Laws of Utah 2012, Chapter 212

51-2a-201.5, as last amended by Laws of Utah 2017, Chapter 11

51-2a-401, as enacted by Laws of Utah 2004, Chapter 206

~~53A-1a-507~~ 53G-3-202, as ~~last~~ renumbered and amended by Laws of Utah ~~2014~~ 2018, Chapter ~~363~~ 3

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~~{53A-2-108}~~53G-5-404, as ~~{last}~~renumbered and amended by Laws of Utah
~~{2000}~~2018, Chapter ~~{185}~~3

~~62A-3-104.1~~, as last amended by Laws of Utah 2012, Chapter 347

~~63G-2-502~~, as last amended by Laws of Utah 2017, Chapter 11

~~67-3-1~~, as last amended by Laws of Utah 2017, Chapter 11

~~67-3-3~~, Utah Code Annotated 1953

~~67-4-1~~, as last amended by Laws of Utah 2017, Chapter 11

ENACTS:

~~10-1-204~~, Utah Code Annotated 1953

~~11-13a-105~~, Utah Code Annotated 1953

~~17-15-31~~, Utah Code Annotated 1953

~~17-43-205~~, Utah Code Annotated 1953

~~17-43-310~~, Utah Code Annotated 1953

~~17C-1-608~~, Utah Code Annotated 1953

~~63E-1-103~~, Utah Code Annotated 1953

~~67-1a-15~~, Utah Code Annotated 1953

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

Section 1. Section ~~10-1-204~~ is enacted to read:

10-1-204. Registration as a local government entity.

(1) Each municipality shall register and maintain the municipality's registration as a local government entity, in accordance with Section 67-1a-15.

(2) A municipality that fails to comply with Subsection (1) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Section 2. Section ~~11-13-203~~ is amended to read:

11-13-203. Interlocal entities -- Agreement to approve the creation of an interlocal entity -- Electric interlocal entity or energy services interlocal entity -- Registration as a limited purpose entity.

(1) An interlocal entity is:

(a) separate from the public agencies that create it;

(b) a body politic and corporate; and

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(c) a political subdivision of the state.

(2) (a) Any two or more Utah public agencies may enter into an agreement to approve the creation of a Utah interlocal entity to accomplish the purpose of their joint or cooperative action, including undertaking and financing a facility or improvement to provide the service contemplated by that agreement.

(b) The creation, operation, governance, and fiscal procedures of an interlocal entity and its governing authority are governed by this chapter and are not subject to the statutes applicable to its members or other entities.

(3) (a) A Utah public agency and one or more public agencies may enter into an agreement to approve the creation of an electric interlocal entity to accomplish the purpose of their joint or cooperative action if that purpose is to participate in the undertaking or financing of:

- (i) facilities to provide additional project capacity;
- (ii) common facilities under Title 54, Chapter 9, Electric Power Facilities Act; or
- (iii) electric generation or transmission facilities.

(b) By agreement with one or more public agencies that are not parties to the agreement creating it, a Utah interlocal entity may be reorganized as an electric interlocal entity if:

(i) the public agencies that are parties to the agreement creating the Utah interlocal entity authorize, in the same manner required to amend the agreement creating the Utah interlocal entity, the Utah interlocal entity to be reorganized as an electric interlocal entity; and

(ii) the purpose of the joint or cooperative action to be accomplished by the electric interlocal entity meets the requirements of Subsection (3)(a).

(4) (a) Two or more Utah public agencies may enter into an agreement with one another or with one or more public agencies to approve the creation of an energy services interlocal entity to accomplish the purposes of their joint and cooperative action with respect to facilities, services, and improvements necessary or desirable with respect to the acquisition, generation, transmission, management, and distribution of electric energy for the use and benefit of the public agencies that enter into the agreement.

(b) (i) A Utah interlocal entity that was created to facilitate the transmission or supply of electric power may, by resolution adopted by its governing board, elect to become an energy

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services interlocal entity.

(ii) Notwithstanding Subsection (4)(b)(i), a Utah interlocal entity that is also a project entity may not elect to become an energy services interlocal entity.

(iii) An election under Subsection (4)(b)(i) does not alter, limit, or affect the validity or enforceability of a previously executed contract, agreement, bond, or other obligation of the Utah interlocal entity making the election.

(5) (a) Each interlocal entity shall register and maintain the interlocal entity's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) An interlocal entity that fails to comply with Subsection (5)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Section 3. Section **11-13a-105** is enacted to read:

11-13a-105. Registration as a limited purpose entity.

(1) Each governmental nonprofit corporation shall register and maintain the governmental nonprofit corporation's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(2) A governmental nonprofit corporation that fails to comply with Subsection (1) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Section 4. Section **17-15-31** is enacted to read:

17-15-31. Registration as a local government entity.

(1) Each county shall register and maintain the county's registration as a local government entity, in accordance with Section 67-1a-15.

(2) A county that fails to comply with Subsection (1) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Section 5. Section **17-43-205** is enacted to read:

17-43-205. Registration as a limited purpose entity.

(1) Each local substance abuse authority shall register and maintain the authority's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(2) A local substance abuse authority that fails to comply with Subsection (1) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

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Section 6. Section **17-43-310** is enacted to read:

17-43-310. Registration as a limited purpose entity.

(1) Each local mental health authority shall register and maintain the authority's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(2) A local mental health authority that fails to comply with Subsection (1) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Section 7. Section **17B-1-103** is amended to read:

17B-1-103. Local district status and powers -- Registration as a limited purpose entity.

(1) A local district:

(a) is:

(i) a body corporate and politic with perpetual succession;

(ii) a quasi-municipal corporation; and

(iii) a political subdivision of the state; and

(b) may sue and be sued.

(2) A local district may:

(a) acquire, by any lawful means, or lease any real property, personal property, or a groundwater right necessary or convenient to the full exercise of the district's powers;

(b) acquire, by any lawful means, any interest in real property, personal property, or a groundwater right necessary or convenient to the full exercise of the district's powers;

(c) transfer an interest in or dispose of any property or interest described in Subsections (2)(a) and (b);

(d) acquire or construct works, facilities, and improvements necessary or convenient to the full exercise of the district's powers, and operate, control, maintain, and use those works, facilities, and improvements;

(e) borrow money and incur indebtedness for any lawful district purpose;

(f) issue bonds, including refunding bonds:

(i) for any lawful district purpose; and

(ii) as provided in and subject to Part 11, Local District Bonds;

(g) levy and collect property taxes:

(i) for any lawful district purpose or expenditure, including to cover a deficit resulting

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from tax delinquencies in a preceding year; and

(ii) as provided in and subject to Part 10, Local District Property Tax Levy;

(h) as provided in Title 78B, Chapter 6, Part 5, Eminent Domain, acquire by eminent domain property necessary to the exercise of the district's powers;

(i) invest money as provided in Title 51, Chapter 7, State Money Management Act;

(j) (i) impose fees or other charges for commodities, services, or facilities provided by the district, to pay some or all of the district's costs of providing the commodities, services, and facilities, including the costs of:

(A) maintaining and operating the district;

(B) acquiring, purchasing, constructing, improving, or enlarging district facilities;

(C) issuing bonds and paying debt service on district bonds; and

(D) providing a reserve established by the board of trustees; and

(ii) take action the board of trustees considers appropriate and adopt regulations to assure the collection of all fees and charges that the district imposes;

(k) if applicable, charge and collect a fee to pay for the cost of connecting a customer's property to district facilities in order for the district to provide service to the property;

(l) enter into a contract that the local district board of trustees considers necessary, convenient, or desirable to carry out the district's purposes, including a contract:

(i) with the United States or any department or agency of the United States;

(ii) to indemnify and save harmless; or

(iii) to do any act to exercise district powers;

(m) purchase supplies, equipment, and materials;

(n) encumber district property upon terms and conditions that the board of trustees considers appropriate;

(o) exercise other powers and perform other functions that are provided by law;

(p) construct and maintain works and establish and maintain facilities, including works or facilities:

(i) across or along any public street or highway, subject to Subsection (3) and if the district:

(A) promptly restores the street or highway, as much as practicable, to its former state of usefulness; and

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(B) does not use the street or highway in a manner that completely or unnecessarily impairs the usefulness of it;

(ii) in, upon, or over any vacant public lands that are or become the property of the state, including school and institutional trust lands, as defined in Section 53C-1-103, if the director of the School and Institutional Trust Lands Administration, acting under Sections 53C-1-102 and 53C-1-303, consents; or

(iii) across any stream of water or watercourse, subject to Section 73-3-29;

(q) perform any act or exercise any power reasonably necessary for the efficient operation of the local district in carrying out its purposes;

(r) (i) except for a local district described in Subsection (2)(r)(ii), designate an assessment area and levy an assessment on land within the assessment area, as provided in Title 11, Chapter 42, Assessment Area Act; or

(ii) for a local district created to assess a groundwater right in a critical management area described in Subsection 17B-1-202(1), designate an assessment area and levy an assessment, as provided in Title 11, Chapter 42, Assessment Area Act, on a groundwater right to facilitate a groundwater management plan;

(s) contract with another political subdivision of the state to allow the other political subdivision to use the district's surplus water or capacity or have an ownership interest in the district's works or facilities, upon the terms and for the consideration, whether monetary or nonmonetary consideration or no consideration, that the district's board of trustees considers to be in the best interests of the district and the public;

(t) upon the terms and for the consideration, whether monetary or nonmonetary consideration or no consideration, that the district's board of trustees considers to be in the best interests of the district and the public, agree:

(i) (A) with~~[(A)]~~ another political subdivision of the state; or

(B) with a public or private owner of property~~[(H)]~~ on which the district has a right-of-way~~;~~ or ~~[(H)]~~ adjacent to which the district owns fee title to property; and

(ii) to allow the use of property:

(A) owned by the district; or

(B) on which the district has a right-of-way; and

(u) if the local district receives, as determined by the local district board of trustees,

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adequate monetary or nonmonetary consideration in return:

- (i) provide services or nonmonetary assistance to a nonprofit entity;
- (ii) waive fees required to be paid by a nonprofit entity; or
- (iii) provide monetary assistance to a nonprofit entity, whether from the local district's

own funds or from funds the local district receives from the state or any other source.

(3) With respect to a local district's use of a street or highway, as provided in Subsection (2)(p)(i):

(a) the district shall comply with the reasonable rules and regulations of the governmental entity, whether state, county, or municipal, with jurisdiction over the street or highway, concerning:

- (i) an excavation and the refilling of an excavation;
- (ii) the relaying of pavement; and
- (iii) the protection of the public during a construction period; and

(b) the governmental entity, whether state, county, or municipal, with jurisdiction over the street or highway:

- (i) may not require the district to pay a license or permit fee or file a bond; and
- (ii) may require the district to pay a reasonable inspection fee.

(4) (a) A local district may:

(i) acquire, lease, or construct and operate electrical generation, transmission, and distribution facilities, if:

(A) the purpose of the facilities is to harness energy that results inherently from the district's~~[-(H)]~~ operation of a project or facilities that the district is authorized to operate~~[-(H)]~~ or ~~[(H)]~~ from the district providing a service that the district is authorized to provide;

(B) the generation of electricity from the facilities is incidental to the primary operations of the district; and

(C) operation of the facilities will not hinder or interfere with the primary operations of the district;

(ii) (A) use electricity generated by the facilities; or

(B) subject to Subsection (4)(b), sell electricity generated by the facilities to an electric utility or municipality with an existing system for distributing electricity.

(b) A district may not act as a retail distributor or seller of electricity.

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(c) Revenue that a district receives from the sale of electricity from electrical generation facilities it owns or operates under this section may be used for any lawful district purpose, including the payment of bonds issued to pay some or all of the cost of acquiring or constructing the facilities.

(5) A local district may adopt and, after adoption, alter a corporate seal.

(6) (a) Each local district shall register and maintain the local district's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) A local district that fails to comply with Subsection (6)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

~~[(6)]~~ (7) (a) As used in this Subsection ~~[(6)]~~ (7), "knife" means a cutting instrument that includes a sharpened or pointed blade.

(b) The authority to regulate a knife is reserved to the state except where the Legislature specifically delegates responsibility to a local district.

(c) Unless specifically authorized by the Legislature by statute, a local district may not adopt or enforce a regulation or rule pertaining to a knife.

Section 8. Section **17B-1-641** is amended to read:

17B-1-641. Local district may expand uniform procedures -- Limitation.

(1) Subject to Subsection (2), a local district may expand the uniform accounting, budgeting, and reporting procedure prescribed in the Uniform Accounting Manual for Local Districts prepared by the state auditor under Subsection 67-3-1~~[(15)]~~(16), to better serve the needs of the district.

(2) A local district may not deviate from or alter the basic prescribed classification systems for the identity of funds and accounts set forth in the Uniform Accounting Manual for Local Districts.

Section 9. Section **17C-1-608** is enacted to read:

17C-1-608. Registration as a limited purpose entity.

(1) Each community reinvestment agency shall register and maintain the community reinvestment agency's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(2) A community reinvestment agency that fails to comply with Subsection (1) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section

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67-3-1.

Section 10. Section **17D-1-103** is amended to read:

17D-1-103. Special service district status, powers, and duties -- Registration as a limited purpose entity -- Limitation on districts providing jail service.

(1) A special service district:

(a) is:

(i) a body corporate and politic with perpetual succession, separate and distinct from the county or municipality that creates it;

(ii) a quasi-municipal corporation; and

(iii) a political subdivision of the state; and

(b) may sue and be sued.

(2) A special service district may:

(a) exercise the power of eminent domain possessed by the county or municipality that creates the special service district;

(b) enter into a contract that the governing authority considers desirable to carry out special service district functions, including a contract:

(i) with the United States or an agency of the United States, the state, an institution of higher education, a county, a municipality, a school district, a local district, another special service district, or any other political subdivision of the state; or

(ii) that includes provisions concerning the use, operation, and maintenance of special service district facilities and the collection of fees or charges with respect to commodities, services, or facilities that the district provides;

(c) acquire or construct facilities;

(d) acquire real or personal property, or an interest in real or personal property, including water and water rights, whether by purchase, lease, gift, devise, bequest, or otherwise, and whether the property is located inside or outside the special service district, and own, hold, improve, use, finance, or otherwise deal in and with the property or property right;

(e) sell, convey, lease, exchange, transfer, or otherwise dispose of all or any part of the special service district's property or assets, including water and water rights;

(f) mortgage, pledge, or otherwise encumber all or any part of the special service district's property or assets, including water and water rights;

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(g) enter into a contract with respect to the use, operation, or maintenance of all or any part of the special service district's property or assets, including water and water rights;

(h) accept a government grant or loan and comply with the conditions of the grant or loan;

(i) use an officer, employee, property, equipment, office, or facility of the county or municipality that created the special service district, subject to reimbursement as provided in Subsection (3);

(j) employ one or more officers, employees, or agents, including one or more engineers, accountants, attorneys, or financial consultants, and establish their compensation;

(k) designate an assessment area and levy an assessment as provided in Title 11, Chapter 42, Assessment Area Act;

(l) contract with a franchised, certificated public utility for the construction and operation of an electrical service distribution system within the special service district;

(m) borrow money and incur indebtedness;

(n) as provided in Part 5, Special Service District Bonds, issue bonds for the purpose of acquiring, constructing, and equipping any of the facilities required for the services the special service district is authorized to provide, including:

(i) bonds payable in whole or in part from taxes levied on the taxable property in the special service district;

(ii) bonds payable from revenues derived from the operation of revenue-producing facilities of the special service district;

(iii) bonds payable from both taxes and revenues;

(iv) guaranteed bonds, payable in whole or in part from taxes levied on the taxable property in the special service district;

(v) tax anticipation notes;

(vi) bond anticipation notes;

(vii) refunding bonds;

(viii) special assessment bonds; and

(ix) bonds payable in whole or in part from mineral lease payments as provided in Section 11-14-308;

(o) except as provided in Subsection [~~(4)~~] (5), impose fees or charges or both for

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commodities, services, or facilities that the special service district provides;

(p) provide to an area outside the special service district's boundary, whether inside or outside the state, a service that the special service district is authorized to provide within its boundary, if the governing body makes a finding that there is a public benefit to providing the service to the area outside the special service district's boundary;

(q) provide other services that the governing body determines will more effectively carry out the purposes of the special service district; and

(r) adopt an official seal for the special service district.

(3) (a) Each special service district shall register and maintain the special service district's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) A special service district that fails to comply with Subsection (3)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

~~[(3)]~~ (4) Each special service district that uses an officer, employee, property, equipment, office, or facility of the county or municipality that created the special service district shall reimburse the county or municipality a reasonable amount for what the special service district uses.

~~[(4)]~~ (5) (a) A special service district that provides jail service as provided in Subsection 17D-1-201(10) may not impose a fee or charge for the service it provides.

(b) Subsection ~~[(4)]~~ (5)(a) may not be construed to limit a special service district that provides jail service from:

(i) entering into a contract with the federal government, the state, or a political subdivision of the state to provide jail service for compensation; or

(ii) receiving compensation for jail service it provides under a contract described in Subsection ~~[(4)]~~ (5)(b)(i).

Section 11. Section **17D-2-103** is amended to read:

17D-2-103. Status and authority of a local building authority -- Registration as a limited purpose entity.

(1) A local building authority:

~~[(1)]~~ (a) is a public entity and an instrumentality of the state, created by a local entity solely for the purpose of constructing, acquiring, improving, or extending, and financing the costs of, one or more projects on behalf of the local entity;

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~~[(2)]~~ (b) shall be known as the "Local Building Authority of (name of the creating local entity)"; and

~~[(3)]~~ (c) may:

~~[(a)]~~ (i) as provided in this chapter, construct, acquire, improve, or extend, and finance the costs of, one or more projects on behalf of the creating local entity, in order to accomplish the public purposes for which the creating local entity exists; and

~~[(b)]~~ (ii) as provided in Part 5, Local Building Authority Bonds, issue and sell its bonds for the purpose of paying the costs of constructing, acquiring, improving, or extending a project.

(2) (a) Each local building authority shall register and maintain the local building authority's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) A local building authority that fails to comply with Subsection (2)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Section 12. Section **17D-3-103** is amended to read:

17D-3-103. Conservation district status, authority, and duties -- Registration as a limited purpose entity.

(1) A conservation district created under this chapter:

- (a) is a body corporate and politic;
- (b) is a political subdivision of the state; and
- (c) may sue and be sued.

(2) (a) A conservation district may:

(i) survey, investigate, and research soil erosion, floodwater, nonpoint source water pollution, flood control, water pollution, sediment damage, and watershed development;

(ii) subject to Subsection (2)(b), devise and implement on state or private land a measure to prevent soil erosion, floodwater or sediment damage, nonpoint source water pollution, or other degradation of a watershed or of property affecting a watershed;

(iii) subject to Subsection (2)(b), devise and implement a measure to conserve, develop, utilize, or dispose of water on state or private land;

(iv) construct, improve, operate, and maintain a structure that the board of supervisors considers necessary or convenient for the conservation district to carry out its purposes under this chapter;

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(v) acquire property, real or personal, by purchase or otherwise, and maintain, improve, and administer that property consistent with the purposes of this chapter;

(vi) enter into a contract in the name of the conservation district;

(vii) receive money from:

(A) a federal or state agency;

(B) a county, municipality, or other political subdivision of the state; or

(C) a private source;

(viii) subject to Subsection (2)(c), make recommendations governing land use within the conservation district, including:

(A) the observance of particular methods of cultivation;

(B) the use of specific crop programs and tillage practices;

(C) the avoidance of tilling and cultivating highly erosive areas where erosion may not be adequately controlled if cultivated;

(D) the construction of terraces, terrace outlets, check dams, dikes, ponds, or other structures; and

(E) the development or restoration, or both, of range or forest lands or other natural resources, whether in private, state, or federal ownership;

(ix) make recommendations for county and municipal land use authorities within the conservation district to consider with respect to land use applications and other development proposals;

(x) employ clerical and other staff personnel, including legal staff, subject to available funds; and

(xi) perform any other act that the board of supervisors considers necessary or convenient for the efficient and effective administration of the conservation district.

(b) A conservation district's authority under Subsections (2)(a)(ii) and (iii) is subject to the consent of:

(i) the land occupier; and

(ii) in the case of school and institutional trust lands, as defined in Section 53C-1-103, the director of the School and Institutional Trust Lands Administration, in accordance with Sections 53C-1-102 and 53C-1-303.

(c) (i) Each recommendation under Subsection (2)(a)(viii) shall be uniform throughout

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the conservation district or, if the board of supervisors classifies land under Subsection (2)(c)(ii), throughout each land classification.

(ii) The board of supervisors may uniformly classify land within the conservation district with respect to soil type, degree of slope, degree of threatened or existing erosion, cropping and tillage practices in use, or other relevant factors.

(3) (a) Each conservation district shall annually submit to the commission, no later than the date that the commission prescribes:

(i) a copy of the minutes of each conservation district meeting;

(ii) a copy of the conservation district's annual work plan; and

(iii) an accounting of the conservation district's financial affairs, as provided in Subsection (3)(b).

(b) The accounting required under Subsection (3)(a)(iii) shall:

(i) be prepared by a disinterested person; and

(ii) show the conservation district's debits and credits, including accounts payable and accounts receivable, the purpose of each debit, the source of each credit, and the actual cash balance on hand.

(4) (a) Each conservation district shall register and maintain the conservation district's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) A conservation district that fails to comply with Subsection (4)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Section 13. Section **26A-1-108** is amended to read:

26A-1-108. Jurisdiction and duties of local health departments -- Registration as a limited purpose entity.

(1) A local health department has jurisdiction in all unincorporated and incorporated areas of the county or counties in which it is established and shall enforce state health laws, Department of Health, Department of Environmental Quality, and local health department rules, regulations, and standards within those areas.

(2) (a) Each local health department shall register and maintain the local health department's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) A local health department that fails to comply with Subsection (2)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

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Section 14. Section 35A-8-402 is amended to read:

35A-8-402. Creation of housing authority authorized -- Procedure -- Registration as a limited purpose entity.

(1) The governing body of each public body of the state, except the state itself, may create an authority, corporate and politic, to be known as a "housing authority."

(2) The governing body of a city or county shall give consideration to the need for an authority:

(a) on its own motion; or

(b) upon the filing of a petition signed by 25 electors of the city or county asserting that there is need for an authority to function in the city or county and requesting that its governing body make a declaration to that effect.

(3) The governing body shall adopt a resolution declaring there is need for an authority and creating an authority in the city or county if it finds:

(a) that unsanitary or unsafe inhabited dwelling accommodations exist in the city or county; or

(b) that there is a shortage of safe and sanitary dwelling accommodations in the city or county available to persons of medium and low income at rentals or prices they can afford.

(4) (a) In any suit, action, or proceeding involving the validity or enforcement of a contract of the authority, an authority shall be conclusively deemed to have become established and authorized to transact business and exercise its powers upon proof of the adoption of the resolution prescribed in Subsection (3).

(b) A copy of the resolution duly certified by the clerk shall be admissible in evidence in a suit, action, or proceeding.

(5) In counties of the third, fourth, fifth, and sixth class, the governing body of each public body of the state, except the state itself, may contract with or execute an interlocal agreement for services to be provided by an existing housing authority established in another political subdivision.

(6) (a) Each housing authority shall register and maintain the housing authority's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) A housing authority that fails to comply with Subsection (6)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

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Section 15. Section **51-2a-201.5** is amended to read:

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

Registration as a limited purpose entity.

(1) As used in this section:

(a) (i) "Federal pass through money" means federal money received by a nonprofit corporation through a subaward or contract from the state or a political subdivision.

(ii) "Federal pass through money" does not include federal money received by a nonprofit corporation as payment for goods or services purchased by the state or political subdivision from the nonprofit corporation.

(b) (i) "Local money" means money that is owned, held, or administered by a political subdivision of the state that is derived from fee or tax revenues.

(ii) "Local money" does not include:

(A) money received by a nonprofit corporation as payment for goods or services purchased from the nonprofit corporation; or

(B) contributions or donations received by the political subdivision.

(c) (i) "State money" means money that is owned, held, or administered by a state agency and derived from state fee or tax revenues.

(ii) "State money" does not include:

(A) money received by a nonprofit corporation as payment for goods or services purchased from the nonprofit corporation; or

(B) contributions or donations received by the state agency.

(2) (a) The governing board of a nonprofit corporation whose revenues or expenditures of federal pass through money, state money, and local money is \$1,000,000 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 \$1,000,000 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

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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~~] Section 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 federal pass through money or state 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) the nonprofit corporation 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 the nonprofit corporation meets or exceeds the dollar amounts as described in Subsection (4)(a), the state agency shall notify the state auditor.

(5) This section does not apply to a nonprofit corporation that is a charter school created under Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act. A charter school is subject to the requirements of Section 53A-1a-507.

(6) A nonprofit corporation is exempt from Section 51-2a-201.

(7) (a) Each nonprofit corporation that receives an amount of money requiring an accounting report under this section shall register and maintain the nonprofit corporation's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) A nonprofit corporation described in Subsection (7)(a) that fails to comply with Subsection (7)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Section 16. Section **51-2a-401** is amended to read:

51-2a-401. Prohibiting access to and withholding funds from an entity that does not comply with the accounting report requirements.

(1) If a political subdivision, interlocal organization, or other local entity does not

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comply with the accounting report requirements of Section 51-2a-201, the state auditor
~~shall~~may:

(a) withhold allocated state funds to pay the cost of the accounting report, in accordance with Subsection (2); or

(b) prohibit financial access, in accordance with Subsection (3).

~~[(1)The]~~ (2) (a) If the state auditor does not prohibit financial access in accordance with Subsection (3), the state auditor ~~shall~~may withhold allocated state funds sufficient to pay the cost of the accounting report from any ~~[political subdivision, interlocal organization, or other local entity that does not comply with the accounting report requirements of Section 51-2a-201]~~ local entity described in Subsection (1).

~~[(2)(a)]~~ (b) If no allocated state funds are available for withholding, the local entity shall reimburse the state auditor for any cost incurred in completing the accounting reports required under Section 51-2a-402.

~~[(b)]~~ (c) The state auditor shall release the withheld funds ~~[when]~~ if the local entity meets the accounting report requirements ~~[are met]~~ either voluntarily or by action under Section 51-2a-402.

(3) (a) If the state auditor does not withhold funds in accordance with Subsection (2), the state auditor ~~shall~~may prohibit any local entity described in Subsection (1) from accessing:

(i) money held by the state; and

(ii) money held in an account of a financial institution by:

(A) contacting the entity's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in district court requesting an order of the court to prohibit a financial institution from providing the entity access to the account.

(b) The state auditor shall remove the prohibition on accessing funds described in Subsection (3)(a) if the local entity meets the accounting report requirements either voluntarily or by action under Section 51-2a-402.

Section 17. Section ~~{53A-1a-507}~~53G-3-202 is amended to read:

~~{53A-1a-507. Requirements for charter schools -- Registration}~~53G-3-202.

School districts independent of municipal and county governments -- School district

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name -- Control of property.

(1) (a) Each school district shall be controlled by its board of education and shall be independent of municipal and county governments.

(b) The name of each school district created after May 1, 2000 shall comply with Subsection 17-50-103(2)(a).

(2) The local school board shall have direction and control of all school property in the district.

(3) (a) Each school district shall register and maintain the school district's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) A school district that fails to comply with Subsection (3)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Section 18. Section 53G-5-404 is amended to read:

53G-5-404. Requirements for charter schools.

(1) A charter school shall be nonsectarian in its programs, admission policies, employment practices, and operations.

(2) A charter school may not charge tuition or fees, except those fees normally charged by other public schools.

(3) A charter school shall meet all applicable federal, state, and local health, safety, and civil rights requirements.

(4) (a) A charter school shall make the same annual reports required of other public schools under this ~~{title}~~ public education code, including an annual financial audit report.

(b) A charter school shall file its annual financial audit report with the Office of the State Auditor within six months of the end of the fiscal year.

(5) (a) A charter school shall be accountable to the charter school's authorizer for performance as provided in the school's charter.

(b) To measure the performance of a charter school, an authorizer may use data contained in:

(i) the charter school's annual financial audit report;

(ii) a report submitted by the charter school as required by statute; or

(iii) a report submitted by the charter school as required by its charter.

(c) A charter school authorizer may not impose performance standards, except as

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permitted by statute, that limit, infringe, or prohibit a charter school's ability to successfully accomplish the purposes of charter schools as provided in Section ~~{53A-1a-503}~~ 53G-5-104 or as otherwise provided in law.

(6) A charter school may not advocate unlawful behavior.

(7) Except as provided in Section ~~{53A-1a-515}~~ 53G-5-305, a charter school shall be organized and managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, after its authorization.

(8) A charter school shall provide adequate liability and other appropriate insurance.

(9) Beginning on July 1, 2014, a charter school shall submit any lease, lease-purchase agreement, or other contract or agreement relating to the charter school's facilities or financing of the charter school's facilities to the school's authorizer and an attorney for review and advice prior to the charter school entering into the lease, agreement, or contract.

(10) A charter school may not employ an educator whose license has been suspended or revoked by the State Board of Education under Section ~~{53A-6-501}~~ 53E-6-604.

(11) (a) Each charter school shall register and maintain the charter school's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) A charter school that fails to comply with Subsection (11)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

~~{~~ ~~Section 18. Section 53A-2-108 is amended to read:~~

~~53A-2-108. School districts independent of municipal and county governments -- School district name -- Control of property -- Registration as a limited purpose entity.~~

~~(1) (a) Each school district shall be controlled by its board of education and shall be independent of municipal and county governments.~~

~~(b) The name of each school district created after May 1, 2000 shall comply with Subsection 17-50-103(2)(a).~~

~~(2) The local school board shall have direction and control of all school property in the district.~~

~~(3) (a) Each school district shall register and maintain the school district's registration as a limited purpose entity, in accordance with Section 67-1a-15.~~

~~(b) A school district that fails to comply with Subsection (3)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.~~

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~~53G-3-202. School districts independent of municipal and county governments==
School district name -- Control of property:~~

~~(1) (a) Each school district shall be controlled by its board of education and shall be independent of municipal and county governments:~~

~~(b) The name of each school district created after May 1, 2000 shall comply with Subsection 17-50-103(2)(a):~~

~~(2) The local school board shall have direction and control of all school property in the district:~~

~~53G-5-404. Requirements for charter schools:~~

~~(1) A charter school shall be nonsectarian in its programs, admission policies, employment practices, and operations:~~

~~(2) A charter school may not charge tuition or fees, except those fees normally charged by other public schools:~~

~~(3) A charter school shall meet all applicable federal, state, and local health, safety, and civil rights requirements:~~

~~(4) (a) A charter school shall make the same annual reports required of other public schools under this public education code, including an annual financial audit report:~~

~~(b) A charter school shall file its annual financial audit report with the Office of the State Auditor within six months of the end of the fiscal year:~~

~~(5) (a) A charter school shall be accountable to the charter school's authorizer for performance as provided in the school's charter:~~

~~(b) To measure the performance of a charter school, an authorizer may use data contained in:~~

~~(i) the charter school's annual financial audit report;~~

~~(ii) a report submitted by the charter school as required by statute; or~~

~~(iii) a report submitted by the charter school as required by its charter:~~

~~(c) A charter school authorizer may not impose performance standards, except as permitted by statute, that limit, infringe, or prohibit a charter school's ability to successfully accomplish the purposes of charter schools as provided in Section 53G-5-104 or as otherwise provided in law:~~

~~(6) A charter school may not advocate unlawful behavior:~~

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~~—— (7) Except as provided in Section 53G-5-305, a charter school shall be organized and managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, after its authorization.~~

~~—— (8) A charter school shall provide adequate liability and other appropriate insurance.~~

~~—— (9) Beginning on July 1, 2014, a charter school shall submit any lease, lease-purchase agreement, or other contract or agreement relating to the charter school's facilities or financing of the charter school's facilities to the school's authorizer and an attorney for review and advice prior to the charter school entering into the lease, agreement, or contract.~~

~~—— (10) A charter school may not employ an educator whose license has been suspended or revoked by the State Board of Education under Section 53E-6-604.~~

‡ Section 19. Section **62A-3-104.1** is amended to read:

62A-3-104.1. Powers and duties of area agencies -- Registration as a limited purpose entity.

(1) An area agency that provides services to an aged person, or a high risk adult shall within the area agency's respective jurisdiction:

(a) advocate by monitoring, evaluating, and providing input on all policies, programs, hearings, and levies that affect a person described in this Subsection (1);

(b) design and implement a comprehensive and coordinated system of services within a designated planning and service area;

(c) conduct periodic reviews and evaluations of needs and services;

(d) prepare and submit to the division plans for funding and service delivery for services within the designated planning and service area;

(e) establish, either directly or by contract, programs licensed under Chapter 2, Licensure of Programs and Facilities;

(f) (i) appoint an area director;

(ii) prescribe the area director's duties; and

(iii) provide adequate and qualified staff to carry out the area plan described in Subsection (1)(d);

(g) establish rules not contrary to policies of the board and rules of the division, regulating local services and facilities;

(h) operate other services and programs funded by sources other than those

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administered by the division;

(i) establish mechanisms to provide direct citizen input, including an area agency advisory council with a majority of members who are eligible for services from the area agency;

(j) establish fee schedules; and

(k) comply with the requirements and procedures of:

(i) Title 11, Chapter 13, Interlocal Cooperation Act; and

(ii) Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

(2) Before disbursing any public funds, an area agency shall require that all entities receiving any public funds agree in writing that:

(a) the division may examine the entity's program and financial records; and

(b) the auditor of the local area agency may examine and audit the entity's program and financial records, if requested by the local area agency.

(3) An area agency on aging may not disburse public funds to a personal care attendant as payment for personal services rendered to an aged person or high risk adult, except as provided in Section 62A-3-104.3.

(4) (a) For the purpose of providing services pursuant to this part, a local area agency may receive:

(i) property;

(ii) grants;

(iii) gifts;

(iv) supplies;

(v) materials;

(vi) any benefit derived from the items described in Subsections (4)(a)(i) through (v);

and

(vii) contributions.

(b) If a gift is conditioned upon the gift's use for a specified service or program, the gift shall be used for the specific service or program.

(5) (a) Area agencies shall award all public funds in compliance with:

(i) the requirements of Title 63G, Chapter 6a, Utah Procurement Code; or

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(ii) a county procurement ordinance that requires procurement procedures similar to those described in Subsection (5)(a)(i).

(b) (i) If all initial bids on a project are rejected, the area agency shall publish a new invitation to bid.

(ii) If no satisfactory bid is received by the area agency described in Subsection (5)(b)(i), when the bids received from the second invitation are opened the area agency may execute a contract without requiring competitive bidding.

(c) (i) An area agency need not comply with the procurement provisions of this section when it disburses public funds to another governmental entity.

(ii) For purposes of this Subsection (5)(c), "governmental entity" means any political subdivision or institution of higher education of the state.

(d) (i) Contracts awarded by an area agency shall be for a:

(A) fixed amount; and

(B) limited period.

(ii) The contracts described in Subsection (5)(d)(i) may be modified due to changes in available funding for the same contract purpose without competition.

(6) Local area agencies shall comply with:

(a) applicable state and federal:

(i) statutes;

(ii) policies; and

(iii) audit requirements; and

(b) directives resulting from an audit described in Subsection (6)(a)(iii).

(7) (a) Each area agency shall register and maintain the area agency's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) An area agency that fails to comply with Subsection (7)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Section 20. Section **63E-1-103** is enacted to read:

63E-1-103. Registration as a limited purpose entity.

(1) Each independent entity shall register and maintain the independent entity's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(2) An independent entity that fails to comply with Subsection (1) or Section 67-1a-15

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is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Section 21. Section **63G-2-502** is amended to read:

63G-2-502. State Records Committee -- Duties.

(1) The records committee shall:

- (a) meet at least once every three months;
- (b) review and approve schedules for the retention and disposal of records;
- (c) hear appeals from determinations of access as provided by Section 63G-2-403;
- (d) determine disputes submitted by the state auditor under Subsection

67-3-1[(16)](17)(d); and

(e) appoint a chairman from among its members.

(2) The records committee may:

(a) make rules to govern its own proceedings as provided by Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(b) by order, after notice and hearing, reassign classification and designation for any record series by a governmental entity if the governmental entity's classification or designation is inconsistent with this chapter.

(3) The records committee shall annually appoint an executive secretary to the records committee. The executive secretary may not serve as a voting member of the committee.

(4) Five members of the records committee are a quorum for the transaction of business.

(5) The state archives shall provide staff and support services for the records committee.

(6) If the records committee reassigns the classification or designation of a record or record series under Subsection (2)(b), any affected governmental entity or any other interested person may appeal the reclassification or redesignation to the district court. The district court shall hear the matter de novo.

(7) The Office of the Attorney General shall provide counsel to the records committee and shall review proposed retention schedules.

Section 22. Section **67-1a-15** is enacted to read:

67-1a-15. Local government and limited purpose entity registry.

(1) As used in this section:

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(a) "Entity" means a limited purpose entity or a local government entity.

(b) (i) "Limited purpose entity" means a legal entity that:

(A) performs a single governmental function or limited governmental functions; and

(B) is not a state executive branch agency, a state legislative office, or within the judicial branch.

(ii) "Limited purpose entity" includes:

(A) area agencies, area agencies on aging, and area agencies on high risk adults, as those terms are defined in Section 62A-3-101;

(B) charter schools created under Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act;

(C) community reinvestment agencies, as that term is defined in Section 17C-1-102;

(D) conservation districts, as that term is defined in Section 17D-3-102;

(E) governmental nonprofit corporations, as that term is defined in Section 11-13a-102;

(F) housing authorities, as that term is defined in Section 35A-8-401;

(G) independent entities and independent state agencies, as those terms are defined in Section 63E-1-102;

(H) interlocal entities, as that term is defined in Section 11-13-103;

(I) local building authorities, as that term is defined in Section 17D-2-102;

(J) local districts, as that term is defined in Section 17B-1-102;

(K) local health departments, as that term is defined in Section 26A-1-102;

(L) local mental health authorities, as that term is defined in Section 62A-15-102;

(M) nonprofit corporations that receive an amount of money requiring an accounting report under Section 51-2a-201.5;

(N) school districts under Title 53A, State System of Public Education;

(O) special service districts, as that term is defined in Section 17D-1-102; and

(P) substance abuse authorities, as that term is defined in Section 62A-15-102.

(c) "Local government and limited purpose entity registry" or "registry" means the registry of local government entities and limited purpose entities created under this section.

(d) "Local government entity" means:

(i) a county, as that term is defined in Section 17-50-101; and

(ii) a municipality, as that term is defined in Section 10-1-104.

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(e) "Notice of failure to register" means the notice the lieutenant governor sends, in accordance with Subsection (7)(a), to an entity that does not register.

(f) "Notice of failure to renew" means the notice the lieutenant governor sends to a registered entity, in accordance with Subsection (7)(b).

(g) "Notice of noncompliance" means the notice the lieutenant governor sends to a registered entity, in accordance with Subsection (6)(c).

(h) "Notice of non-registration" means the notice the lieutenant governor sends to an entity and the state auditor, in accordance with Subsection (9).

(i) "Notice of registration or renewal" means the notice the lieutenant governor sends, in accordance with Subsection (6)(b)(i).

(j) "Registered entity" means an entity with a valid registration as described in Subsection (8).

(2) The lieutenant governor shall:

(a) create a registry of each local government entity and limited purpose entity within the state that:

(i) contains the information described in Subsection (4); and

(ii) is accessible on the lieutenant governor's website or otherwise publicly available;

and

(b) establish fees for registration and renewal, in accordance with Section 63J-1-504, based on and to directly offset the cost of creating, administering, and maintaining the registry.

(3) Each local government entity and limited purpose entity shall:

(a) on or before July 1, 2019, register with the lieutenant governor as described in Subsection (4);

(b) on or before one year after the day on which the lieutenant governor issues the notice of registration or renewal, annually renew the entity's registration in accordance with Subsection (5); and

(c) within 30 days after the day on which any of the information described in Subsection (4) changes, send notice of the changes to the lieutenant governor.

(4) Each entity shall include the following information in the entity's registration submission:

(a) the resolution or other legal or formal document creating the entity or, if the

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resolution or other legal or formal document creating the entity cannot be located, conclusive proof of the entity's lawful creation;

(b) a map or plat establishing the geographic boundaries of the entity, or if it is impossible or unreasonably expensive to create a map or plat, a metes and bounds description, or another legal description that identifies the boundaries of the entity, conclusive proof of the entity's geographic boundaries;

(c) the entity's name;

(d) the entity's type of local government entity or limited purpose entity;

(e) the entity's governmental function;

(f) the entity's physical address and phone number, including the name and contact information of an individual whom the entity designates as the primary contact for the entity;

(g) names of the members of the entity's governing board or commission, managing officers, or other similar managers and the method by which the members or officers are appointed, elected, or otherwise designated;

(h) the entity's sources of revenue; and

(i) if the entity has created an assessment area, as that term is defined in Section 11-42-102, information regarding the creation, purpose, and boundaries of the assessment area.

(5) Each entity shall include the following information in the entity's renewal submission:

(a) identify and update any incorrect or outdated information the entity previously submitted during registration under Subsection (4); or

(b) certify that the information the entity previously submitted during registration under Subsection (4) is correct without change.

(6) Within 30 days of receiving an entity's registration or renewal submission, the lieutenant governor shall:

(a) review the submission to determine compliance with Subsection (4) or (5);

(b) if the lieutenant governor determines that the entity's submission complies with Subsection (4) or (5):

(i) send a notice of registration or renewal that includes the information that the entity submitted under Subsection (4) or (5) to:

(A) the registering or renewing entity;

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(B) each county in which the entity operates, either in whole or in part, or where the entity's geographic boundaries overlap or are contained within the boundaries of the county;

(C) the Division of Archives and Records Service; and

(D) the Office of the Utah State Auditor; and

(ii) publish the information from the submission on the registry; and

(c) if the lieutenant governor determines that the entity's submission does not comply with Subsection (4) or (5) or is otherwise inaccurate or deficient, send a notice of noncompliance to the registering or renewing entity that:

(i) identifies each deficiency in the entity's submission with the corresponding statutory requirement;

(ii) establishes a deadline to cure the entity's noncompliance that is the first business day that is at least 30 calendar days after the day on which the lieutenant governor sends the notice of noncompliance; and

(iii) states that failure to comply by the deadline the lieutenant governor establishes under Subsection (6)(c)(ii) will result in the lieutenant governor sending a notice of non-registration to the Office of the Utah State Auditor, in accordance with Subsection (9).

(7) (a) If the lieutenant governor identifies an entity that does not make a registration submission in accordance with Subsection (4) by the deadline described in Subsection (3), the lieutenant governor shall send a notice of failure to register to the registered entity that:

(i) identifies the statutorily required registration deadline described in Subsection (3) that the entity did not meet;

(ii) establishes a deadline to cure the entity's failure to register that is the first business day that is at least 10 calendar days after the day on which the lieutenant governor sends the notice of failure to register; and

(iii) states that failure to comply by the deadline the lieutenant governor establishes under Subsection (7)(a)(ii) will result in the lieutenant governor sending a notice of non-registration to the Office of the Utah State Auditor, in accordance with Subsection (9).

(b) If a registered entity does not make a renewal submission in accordance with Subsection (5) by the deadline described in Subsection (3), the lieutenant governor shall send a notice of failure to renew to the registered entity that:

(i) identifies the renewal deadline described in Subsection (3) that the entity did not

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meet;

(ii) establishes a deadline to cure the entity's failure to renew that is the first business day that is at least 30 calendar days after the day on which the lieutenant governor sends the notice of failure to renew; and

(iii) states that failure to comply by the deadline the lieutenant governor establishes under Subsection (7)(b)(ii) will result in the lieutenant governor sending a notice of non-registration to the Office of the Utah State Auditor, in accordance with Subsection (9).

(8) An entity's registration is valid:

(a) if the entity makes a registration or renewal submission in accordance with the deadlines described in Subsection (3);

(b) during the period the lieutenant governor establishes in the notice of noncompliance or notice of failure to renew during which the entity may cure the identified registration deficiencies; and

(c) for one year beginning on the day the lieutenant governor issues the notice of registration or renewal.

(9) (a) The lieutenant governor shall send a notice of non-registration to the Office of the Utah State Auditor if an entity fails to:

(i) cure the entity's noncompliance by the deadline the lieutenant governor establishes in the notice of noncompliance;

(ii) register by the deadline the lieutenant governor establishes in the notice of failure to register; or

(iii) cure the entity's failure to renew by the deadline the lieutenant governor establishes in the notice of failure to renew.

(b) The lieutenant governor shall ensure that the notice of non-registration:

(i) includes a copy of the notice of noncompliance, the notice of failure to register, or the notice of failure to renew; and

(ii) requests that the state auditor withhold state allocated funds or the disbursement of property taxes and prohibit the entity from accessing money held by the state or money held in an account of a financial institution, in accordance with Subsections 67-3-1(7)(i) and 67-3-1(10).

(10) The lieutenant governor may extend a deadline under this section if an entity

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notifies the lieutenant governor, before the deadline to be extended, of the existence of an extenuating circumstance that is outside the control of the entity.

Section 23. 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;

(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

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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 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

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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~~

(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[-]; and

(i) withhold state allocated funds or the disbursement of property taxes from a local government entity or a limited purpose entity, as those terms are defined in Section

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67-1a-15 ~~if~~ if the state auditor finds the withholding necessary ~~to~~ to ensure that the entity registers and maintains the entity's registration with the lieutenant governor, in accordance with Section 67-1a-15.

(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

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(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) (a) The state auditor may not withhold funds under Subsection (7)(i) until the state auditor receives a notice of non-registration, as that term is defined in Section 67-1a-15.

(b) If the state auditor receives a notice of non-registration, the state auditor may prohibit the local government entity or limited purpose entity, as those terms are defined in Section 67-1a-15, from accessing:

(i) money held by the state; and

(ii) money held in an account of a financial institution by:

(A) contacting the entity's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in district court requesting an order of the court to prohibit a financial institution from providing the entity access to an account.

(c) The state auditor shall remove the prohibition on accessing funds described in Subsection (10)(b) if the state auditor received a notice of registration, as that term is defined in Section 67-1a-15, from the lieutenant governor.

~~[(10)]~~ (11) Notwithstanding Subsection (7)(g), (7)(h), (7)(i), (8)(b), [or] (8)(d), or (10)(b), the state auditor:

(a) shall authorize a disbursement by a local government entity or limited purpose entity, as those terms are defined in Section 67-1a-15, or 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 local government entity, limited purpose entity, or state or local taxing or fee-assessing unit; or

(ii) meet debt service obligations; and

(b) may authorize a disbursement by a local government entity, limited purpose entity,

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or state or local taxing or fee-assessing unit as the state auditor determines is appropriate.

~~[(11)]~~ (12) (a) The state auditor may seek relief under the Utah Rules of Civil Procedure to take temporary custody of public funds if an action is necessary to protect public funds from being improperly diverted from their intended public purpose.

(b) If the state auditor seeks relief under Subsection ~~[(11)]~~ (12)(a):

(i) the state auditor is not required to exhaust the procedures in Subsection (7) or (8);
and

(ii) the state treasurer may hold the public funds in accordance with Section 67-4-1 if a court orders the public funds to be protected from improper diversion from their public purpose.

~~[(12)]~~ (13) 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 Title 17, Chapter 43, 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

(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.

~~[(13)]~~ (14) 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

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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.

~~[(14)]~~ (15) (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.

~~[(15)]~~ (16) 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 this Subsection (15)(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;

(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

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auditor and make the information available to all districts.

~~[(16)]~~ (17) (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 ~~[(16)]~~ (17)(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 ~~[(16)]~~ (17) do not limit the authority otherwise given to 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 ~~[(16)]~~ (17)(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

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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 ~~[(16)]~~ (17)(d)(ii), as provided in Section 63G-2-404.

~~[(17)]~~ (18) 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.

Section 24. Section 67-3-3 is amended to read:

67-3-3. Disbursements of public funds -- Suspension of disbursements --

Procedure upon suspension.

(1) The state auditor ~~[shall have the power to]~~ may suspend any disbursement of public funds whenever, in ~~[his]~~ the state auditor's opinion ~~[such], the~~ disbursement is contrary to law~~[- and if]~~.

(2) (a) ~~If~~ the validity of ~~[any such]~~ a disbursement ~~[be]~~ described in Subsection (1) is not established within six months from the date of original suspension ~~[then], the state auditor shall refer~~ the matter ~~[shall be referred]~~ to the attorney general for appropriate action ~~[and if]~~.

(b) ~~If~~, in ~~[his]~~ the attorney general's opinion, the suspension ~~described in~~ ~~Subsection (2)(a)~~ was justified ~~[he]~~, the attorney general shall immediately notify the state auditor, who shall ~~[forthwith]~~ immediately make demand upon the surety of the disbursing or certifying officer~~[- and it shall be mandatory upon]~~.

(c) If the state auditor makes a demand under Subsection (2)(b), the surety shall immediately ~~[to]~~ meet the demand and ~~[to]~~ pay into the state treasury by certified check or legal tender any amount or amounts disbursed and involved in the suspension.

~~[All suspensions shall be]~~ (3) (a) The state auditor shall ensure that each suspension is

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in writing ~~[and the]~~.

(b) The state auditor shall:

(i) prepare a form to be known as the notice of suspension~~[-The]~~;

(ii) ensure that the form ~~[shall contain]~~ contains complete information as to:

(A) the payment suspended~~[-]~~;

(B) the reason for the suspension ~~[and]~~;

(C) the amount of money involved; and

(D) any other information that will clearly establish identification of the payment~~[-~~

~~The]~~;

(iii) retain the original of the suspension notice ~~[shall be retained by the state auditor and]~~;

(iv) serve one copy ~~[shall be served]~~ of the suspension notice upon:

(A) the disbursing or certifying officer~~[-one copy upon]~~;

(B) any member of the finance commission~~[-one copy upon]~~; and

(C) the surety of the disbursing or certifying officer, ~~[and one copy shall be attached]~~
except that mailing the copy to the surety company constitutes legal service;

(v) attach one copy of the suspension notice to the document under suspension~~[-~~
~~Receipts]~~; and

(vi) take receipts entered upon the original suspension notice held by the state auditor ~~[shall be taken]~~ from the disbursing or certifying officer, the finance commission, and the surety~~[-except that the copy to the surety company may be mailed in which case so doing will constitute legal service]~~.

(4) (a) Immediately upon any suspension becoming final, the finance commission shall:

(i) cause an entry to be made debiting the disbursing or certifying officer with the amount of money involved in any suspension notice; and ~~[shall]~~

(ii) credit the account originally charged by the payment.

(b) Upon release of final suspension by the state auditor, the finance commission shall make a reversing entry ~~[shall be made]~~, crediting the disbursing or certifying officer, and like credit shall be given in all recoveries from the surety.

(5) (a) In accordance with this Subsection (5), the state auditor may prohibit the access

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of a state or local taxing or fee-assessing unit to money held by the state or in an account of a financial institution, if the state auditor determines that the local taxing or fee-assessing unit is not in compliance with state law regarding budgeting, expenditures, financial reporting of public funds, and transparency.

(b) The state auditor may not withhold funds under Subsection (5)(a) until the state auditor:

(i) sends formal notice of noncompliance to the state or local taxing or fee-assessing unit; and

(ii) allows the state or local taxing or fee-assessing unit 60 calendar days to:

(a) make the specified corrections; or

(B) demonstrate to the state auditor that the specified corrections are not legally required.

(c) If, after receiving notice under Subsection (5)(b), the state or local fee-assessing unit does not make the specified corrections and the state auditor does not agree with any demonstration under Subsection (5)(b)(ii)(B), the state auditor:

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

(ii) shall provide a recommended timeline for corrective actions;

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

(iv) may prohibit the 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

(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.

(d) The state auditor shall remove the prohibition on accessing funds described in Subsections (5)(c)(iii) and (iv) if:

(i) the state or local taxing or fee-assessing unit makes the specified corrections described Subsection (5)(b); or

(ii) the state auditor agrees with a demonstration under Subsection (5)(b)(ii)(B).

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Section 25. Section **67-4-1** is amended to read:

67-4-1. Duties.

(1) The state treasurer shall:

(a) receive and maintain custody of all state funds;

(b) unless otherwise provided by law, invest all funds delivered into the state treasurer's custody according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act;

(c) pay warrants drawn by the Division of Finance as they are presented;

(d) return each redeemed warrant to the Division of Finance for purposes of reconciliation, post-audit, and verification;

(e) ensure that state warrants not presented to the state treasurer for payment within one year from the date of issue, or a shorter period if required by federal regulation or contract, are canceled and credited to the proper fund;

(f) account for all money received and disbursed;

(g) keep separate account of the different funds;

(h) keep safe all bonds, warrants, and securities delivered into his custody;

(i) at the request of either house of the Legislature, or of any legislative committee, give information in writing as to the condition of the treasury, or upon any subject relating to the duties of his office;

(j) keep the books open at all times for the inspection by the governor, the state auditor, or any member of the Legislature, or any committee appointed to examine them by either house of the Legislature;

(k) authenticate and validate documents when necessary;

(l) adopt a seal and file a description and an impression of it with the Division of Archives; and

(m) discharge the duties of a member of all official boards of which he is or may be made a member by the Constitution or laws of Utah.

(2) When necessary to perform his duties, the state treasurer may inspect the books, papers, and accounts of any state entity.

(3) The state treasurer may take temporary custody of public funds if ordered by a court to do so under Subsection 67-3-1~~[(11)]~~(12).

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Legislative Review Note

Office of Legislative Research and General Counsel