

SB0026S02 compared with SB0026S01

~~text~~ shows text that was in SB0026S01 but was deleted in SB0026S02.

Inserted text shows text that was not in SB0026S01 but was inserted into SB0026S02.

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Senator Deidre M. Henderson proposes the following substitute bill:

GOVERNMENTAL NONPROFIT CORPORATION ACT

AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Deidre M. Henderson

House Sponsor: _____

LONG TITLE

General Description:

This bill amends definitions and provides for certain training relating to governmental nonprofit corporations.

Highlighted Provisions:

This bill:

~~amends an informational requirement for the local government and limited purpose entity registry;~~

- requires the state auditor to:
 - develop a training or other informational resource regarding best practices for financial controls and board governance; and

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- distribute the training or other informational resource to certain state and local entities and governmental nonprofit corporations;
- ▶ requires each member of a board of trustees of a governmental nonprofit to take the training that the state auditor provides regarding best practices for financial controls and board governance;
- ▶ amends an informational requirement for the local government and limited purpose entity registry; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

67-1a-15, as enacted by Laws of Utah 2018, Chapter 256

ENACTS:

~~{67-3-1}~~ 11-13A-106, ~~{ as last amended by Laws of } Utah { 2018, Chapters 200 and 256 }~~ Code Annotated 1953

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

Section 1. Section ~~{67-1a-15}~~ 11-13A-106 is ~~{amended}~~ enacted to read:

11-13A-106. Training for board members.

(1) (a) (i) Each member of a board of trustees of a governmental nonprofit shall, within six months after taking office, complete the training described in Subsection (2)(a).

(ii) If a board member fails to complete the training described in Subsection (2)(a) within the time period specified in Subsection (1)(a)(i), the board member is disqualified and may not act as a board member.

(b) For the purposes of Subsection (1)(a), a member of a board of trustees of a governmental nonprofit takes office each time the member is elected or appointed to a new term.

(2) The state auditor shall:

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(a) develop a training or other informational resource to aid a governmental nonprofit corporation in implementing best practices for financial controls and board governance;

(b) provide the training or other informational resource described in Subsection (2)(a) to each of the following entities that provides any required budgeting, expenditure, or financial report to the state auditor:

(i) a governmental nonprofit corporation;

(ii) a state agency or political subdivision of the state that wholly controls or has a controlling interest in a governmental nonprofit corporation, as described in Section 11-13a-102; and

(iii) any other entity that, in the opinion of the state auditor, could benefit from the resource;

(c) ensure that the training described in Subsection (2)(a) complies with Title 63G, Chapter 22, State Training and Certification Requirements; and

(d) issue a certificate of completion to each board member that completes the training described in Subsection (2)(a).

Section 2. Section 67-1a-15 is amended to read:

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

(1) As used in this section:

(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 53G, Chapter 5, Charter Schools;

(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;

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(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 53G, Chapter 3, School District Creation and Change;

(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.

(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

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

(b) if the entity has geographic boundaries, 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]~~ reasonable 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 website, 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

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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;

(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

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(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 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

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(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 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 2. 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;~~

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~~—— (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 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;~~

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~~—— (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 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~~

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~~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;~~

~~—— (c) 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;~~

~~—— (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 67-1a-15 if the state auditor finds the withholding necessary 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~~

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~~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~~

~~—— (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.~~

~~—— (c) 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:~~

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- ~~—— (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.~~
- ~~—— (11) Notwithstanding Subsection (7)(g), (7)(h), (7)(i), (8)(b), (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, or state or local taxing or fee-assessing unit as the state auditor determines is appropriate.~~
- ~~—— (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 (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.~~
- ~~—— (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;~~

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~~Chapter 43, Part 2, Local Substance Abuse Authorities, 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.~~

~~—— (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 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.~~

~~—— (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.~~

~~—— (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:~~

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- ~~—— (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)] (16)(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) (A) 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) ensure that any training described in Subsection [(15)] (16)(a)(v)(A) complies with Title 63G, Chapter 22, State Training and Certification Requirements; 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 auditor and make the information available to all districts.~~
- ~~—— (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~~

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

~~—— (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~~

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~~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:~~

~~—— (19) (a) As used in this subsection, "governmental nonprofit corporation" means the same as that term is defined in Section 11-13a-102.~~

~~—— (b) The state auditor shall:~~

~~—— (i) develop a training or other informational resource to aid a governmental nonprofit corporation in implementing best practices for financial controls and board governance; and~~

~~—— (ii) provide the training or other informational resource described in Subsection (19)(b)(i) to each of the following entities that provides any required budgeting, expenditure, or financial report to the state auditor:~~

~~—— (A) a governmental nonprofit corporation;~~

~~—— (B) a state agency or political subdivision of the state that wholly controls or has a controlling interest in a governmental nonprofit corporation, as described in Section 11-13a-102; and~~

~~—— (C) any other entity that, in the opinion of the state auditor, could benefit from the resource.~~

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