

1                   **RETIREMENT AND INDEPENDENT ENTITIES**

2                                   **AMENDMENTS**

3   2023 GENERAL SESSION

4   STATE OF UTAH

5                                   **Chief Sponsor: Wayne A. Harper**

6   House Sponsor: Walt Brooks

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8   **LONG TITLE**

9   **General Description:**

10           This bill amends provisions related to the Independent Entities Code.

11   **Highlighted Provisions:**

12           This bill:

- 13           ▶ clarifies which entities are considered independent entities for purposes of the
- 14 Independent Entities Code;
- 15           ▶ adds the Public Service Commission to the list of independent entities and
- 16 authorizes the commission to participate in coverage under the Risk Management
- 17 Fund;
- 18           ▶ allows the Retirement and Independent Entities Committee to meet at certain times
- 19 to review draft legislation that is in the committee's purview;
- 20           ▶ requires the committee to review certain entities to determine whether an entity
- 21 should be treated as an independent entity;
- 22           ▶ amends the committee's duties concerning studying retirement issues;
- 23           ▶ provides for the return of an independent entity's unspent appropriations to the state
- 24 in certain circumstances;
- 25           ▶ repeals a provision exempting the Utah Housing Corporation from study by the
- 26 committee; and
- 27           ▶ makes technical and conforming changes.

28   **Money Appropriated in this Bill:**

29           None

30 **Other Special Clauses:**

31 None

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **54-1-1**, as last amended by Laws of Utah 1983, Chapter 246

35 **63E-1-102**, as last amended by Laws of Utah 2022, Chapters 44, 63

36 **63E-1-201**, as last amended by Laws of Utah 2014, Chapter 387

37 **63E-1-202**, as last amended by Laws of Utah 2002, Chapter 250

38 **63E-1-402**, as last amended by Laws of Utah 2002, Chapter 262

39 REPEALS:

40 **63E-1-203**, as last amended by Laws of Utah 2017, Chapter 363



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

43 Section 1. Section **54-1-1** is amended to read:

44 **54-1-1. Establishment of commission -- Functions -- Participation in Risk**

45 **Management Fund.**

46 (1) The Public Service Commission of Utah is established as an independent agency.

47 (2) The Public Service Commission is charged with discharging the duties and  
48 exercising the legislative, adjudicative, and rule-making powers committed to it by law and  
49 may sue and be sued in its own name.

50 (3) Subject to Subsection **63E-1-304(2)**, the Public Service Commission may  
51 participate in coverage under the Risk Management Fund created by Section **63A-4-201**.

52 Section 2. Section **63E-1-102** is amended to read:

53 **63E-1-102. Definitions -- List of independent entities.**

54 As used in this title:

55 (1) "Authorizing statute" means the statute creating an entity as an independent entity.

56 (2) "Committee" means the Retirement and Independent Entities Committee created by  
57 Section **63E-1-201**.

58 (3) "Independent corporation" means a corporation incorporated in accordance with  
59 Chapter 2, Independent Corporations Act.

60 (4) (a) "Independent entity" means an entity having a public purpose relating to the  
61 state or its citizens that is individually created by the state or is given by the state the right to  
62 exist and conduct its affairs as an:

63 (i) independent state agency; or

64 (ii) independent corporation.

65 (b) [~~"Independent entity" includes the~~] For purposes of this title, the independent  
66 entities are the:

67 (i) Utah Beef Council, created by Section [4-21-103](#);

68 (ii) Utah Dairy Commission created by Section [4-22-103](#);

69 (iii) Heber Valley Historic Railroad Authority created by Section [63H-4-102](#);

70 (iv) Utah Housing Corporation created by Section [63H-8-201](#);

71 (v) Utah State Fair Corporation created by Section [63H-6-103](#);

72 (vi) Utah State Retirement Office created by Section [49-11-201](#);

73 (vii) School and Institutional Trust Lands Administration created by Section  
74 [53C-1-201](#);

75 (viii) School and Institutional Trust Fund Office created by Section [53D-1-201](#);

76 (ix) Utah Communications Authority created by Section [63H-7a-201](#);

77 (x) Utah Capital Investment Corporation created by Section [63N-6-301](#); [~~and~~]

78 (xi) Military Installation Development Authority created by Section [63H-1-201](#)[~~;~~]; and

79 (xii) Public Service Commission of Utah created by Section [54-1-1](#).

80 (c) Notwithstanding this Subsection (4), "independent entity" does not include:

81 [~~(i) the Public Service Commission of Utah created by Section [54-1-1](#);~~]

82 [~~(ii)~~] (i) an institution within the state system of higher education;

83 [~~(iii)~~] (ii) a city, county, or town;

84 [~~(iv)~~] (iii) a local school district;

85 [~~(v)~~] (iv) a local district under Title 17B, Limited Purpose Local Government Entities -

86 Local Districts; or

87 [~~(vi)~~] (v) a special service district under Title 17D, Chapter 1, Special Service District  
88 Act.

89 (5) "Independent state agency" means an entity that is created by the state, but is  
90 independent of the governor's direct supervisory control.

91 (6) "Money held in trust" means money maintained for the benefit of:

92 (a) one or more private individuals, including public employees;

93 (b) one or more public or private entities; or

94 (c) the owners of a quasi-public corporation.

95 (7) "Public corporation" means an artificial person, public in ownership, individually  
96 created by the state as a body politic and corporate for the administration of a public purpose  
97 relating to the state or its citizens.

98 (8) "Quasi-public corporation" means an artificial person, private in ownership,  
99 individually created as a corporation by the state, which has accepted from the state the grant of  
100 a franchise or contract involving the performance of a public purpose relating to the state or its  
101 citizens.

102 Section 3. Section **63E-1-201** is amended to read:

103 **63E-1-201. Retirement and Independent Entities Committee creation.**

104 (1) There is created the Retirement and Independent Entities Committee composed of  
105 15 legislators appointed as follows:

106 (a) six senators, appointed by the president of the Senate, with at least two senators  
107 from the minority party; and

108 (b) nine representatives, appointed by the speaker of the House of Representatives,  
109 with at least three representatives from the minority party.

110 (2) (a) The president of the Senate shall designate one of the Senate appointees as a  
111 cochair of the committee.

112 (b) The speaker of the House of Representatives shall designate one of the House of  
113 Representatives appointees as a cochair of the committee.

114 (3) Committee members serve for two years, but may be reappointed by the speaker or  
115 the president.

116 (4) (a) The committee shall meet at least twice each year, but may meet more  
117 frequently if the chairs determine that additional meetings are needed.

118 (b) At the committee chairs' discretion, the committee may meet during the period that  
119 begins on the first Thursday in December and ends on the day before the beginning of the  
120 annual general session to review pending or proposed legislation related to:

121 (i) an existing independent entity;

122 (ii) the creation of a new independent entity; or

123 (iii) Title 49, Utah State Retirement and Insurance Benefit Act.

124 (5) [~~In conducting all of its business~~] Except as provided in Subsection (4), the  
125 committee shall comply with the rules of legislative interim committees.

126 (6) The Office of Legislative Research and General Counsel shall provide staff services  
127 to the committee.

128 (7) Compensation and expenses of a member who is a legislator are governed by  
129 Section [36-2-2](#) and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

130 Section 4. Section **63E-1-202** is amended to read:

131 **63E-1-202. Duties of the committee.**

132 (1) The committee shall:

133 (a) study the scope of this title and determine what entities should be treated under this  
134 title as independent entities;

135 (b) review annually new entities created by the state and entities registered as  
136 independent entities pursuant to Section [67-1a-15](#) to determine if any entities should be added  
137 to the list of independent entities in Section [63E-1-102](#);

138 [~~(b)~~] (c) study the provisions of the Utah Code that govern each independent entity,  
139 including whether or not there should be consistency in these provisions;

140 [~~(c)~~] (d) study what provisions of the Utah Code, if any, from which each independent  
141 entity should be exempted;

142 ~~[(d)]~~ (e) study whether or not the state should receive services from or provide services  
143 to each independent entity;

144 ~~[(e)]~~ (f) request and hear reports from each independent entity;

145 ~~[(f)]~~ (g) review the annual audit of each independent entity that is performed in  
146 accordance with the statutes governing the independent entity;

147 ~~[(g)]~~ (h) comply with Part 3, Creation of Independent Entities, in reviewing a proposal  
148 to create a new independent entity;

149 ~~[(h)]~~ (i) if the committee recommends a change in the organizational status of an  
150 independent entity as provided in Subsection (2) and subject to Part 4, Privatization of  
151 Independent Entities, recommend the appropriate method of changing the organizational status  
152 of the independent entity; and

153 (j) study pending and proposed legislation, funding, and other issues related to Title 49,  
154 Utah State Retirement and Insurance Benefit Act.

155 ~~[(i) study the following concerning an entity created by local agreement under Title 11,~~  
156 ~~Chapter 13, Interlocal Cooperation Act, if the state is a party to the agreement creating the~~  
157 ~~entity;]~~

158 ~~[(i) whether or not the entity should be subject to this chapter;]~~

159 ~~[(ii) whether or not the state should receive services from or provide services to the~~  
160 ~~entity;]~~

161 ~~[(iii) reporting and audit requirements for the entity; and]~~

162 ~~[(iv) the need, if any, to modify statutes related to the entity;]~~

163 ~~[(j) make a recommendation on the organizational status of each independent entity~~  
164 ~~prior to the 2002 General Session; and]~~

165 ~~[(k) report annually to the Legislative Management Committee by no later than the~~  
166 ~~Legislative Management Committee's November meeting.]~~

167 (2) The committee may:

168 (a) establish a form for any report required under Subsection (1);

169 (b) make recommendations to the Legislature concerning the organizational status of

170 an independent entity; and

171 (c) advise the Legislature concerning issues involving independent entities[~~;~~ and].

172 [~~(d) study issues related to the implementation of Title 49, Utah State Retirement and~~  
173 ~~Insurance Benefit Act.]~~

174 Section 5. Section **63E-1-402** is amended to read:

175 **63E-1-402. Benefits to interested parties of an independent entity -- Disposition of**  
176 **unused appropriations.**

177 (1) If an independent entity is privatized, the following may not receive any benefit  
178 prohibited under Subsection (2):

179 (a) an interested party of the independent entity;

180 (b) an entity in which an interested party holds a business interest;

181 (c) a lobbyist of the independent entity; or

182 (d) an entity in which a lobbyist of the independent entity holds a business interest.

183 (2) If an independent entity is privatized:

184 (a) a person described in Subsection (1)(a) or (b) may not receive:

185 (i) compensation from an independent entity that is conditioned in whole or in part on:

186 (A) the passage, defeat, or amendment of legislative action related to privatization; or

187 (B) the approval, modification, or denial of an executive action related to privatization;

188 or

189 (ii) any asset of the independent entity or its successor; and

190 (b) a person described in Subsection (1)(c) or (d) may not receive any:

191 (i) compensation that if received by the lobbyist would be in violation of Section

192 [36-11-301](#); or

193 (ii) asset of the independent entity or its successor.

194 (3) Subsection (2)(a)(ii) does not apply to funds in a loan program administered by an  
195 independent entity if:

196 (a) the funds were provided by an entity other than the state or were derived from those  
197 funds, including loan payments, interest, and other charges paid by borrowers;

198 (b) the person described in Subsection (1)(a) or (b) who receives the funds assumes all  
199 duties and obligations of the independent entity:

200 (i) under the contract with the entity that provided the initial funding; and

201 (ii) relating to the loan program;

202 (c) separate records have been maintained regarding the use of the funds;

203 (d) the funds may only be used for purposes specified in an agreement with the entity  
204 that provided the initial funding; and

205 (e) the funds may only be transferred to a person described in Subsection (1)(a) or (b) if  
206 the transfer is approved by the entity that provided the initial funding.

207 (4) (a) If an action described in Subsection 63E-1-401(5)(b)(i) or (ii) is taken under  
208 circumstances in which the independent entity is no longer functioning, the independent entity  
209 shall return to the Division of Finance any unused appropriations made to the independent  
210 entity by the Legislature.

211 (b) The Division of Finance shall deposit funds received under Subsection (4)(a) into  
212 the General Fund.

213 **Section 6. Repealer.**

214 This bill repeals:

215 Section **63E-1-203, Exemptions from committee activities.**