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INDEPENDENT ENTITIES AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael K. McKell

House Sponsor: _____

LONG TITLE

General Description:

This bill addresses independent entities.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires independent entities to utilize best practices tools provided by the Office of the Legislative Auditor General;
- ▶ requires a consensus group comprising the Governor's Office of Planning and Budget, the state auditor, and the Office of Legislative Research and General Counsel to conduct an annual assessment of independent entities;
- ▶ requires the consensus group to provide reports to the Legislative Management Committee, governor, and an independent entity's governing body;
- ▶ requires the Legislative Management Committee to assign each report from the consensus group to an interim committee for study and possible action; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



28 ENACTS:

29 [63H-9-101](#), Utah Code Annotated 1953

30 [63H-9-102](#), Utah Code Annotated 1953

31 [63H-9-103](#), Utah Code Annotated 1953

32 [63H-9-104](#), Utah Code Annotated 1953



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

35 Section 1. Section [63H-9-101](#) is enacted to read:

36 **CHAPTER 9. OVERSIGHT OF INDEPENDENT ENTITIES**

37 **63H-9-101. Definitions.**

38 As used in this chapter:

39 (1) "Best practices toolbox" means the collection of resources for governmental entities
40 provided on the website of the Office of the Legislative Auditor General that includes a best
41 practice self-assessment and other resources, tools, and reports designed to help government
42 organizations better serve the citizens of the state.

43 (2) "Consensus group" means the Governor's Office of Planning and Budget, the state
44 auditor, and the Office of Legislative Research and General Counsel.

45 (3) "Executive branch agency" means an agency or administrative subunit of state
46 government that reports to the governor or lieutenant governor.

47 (4) (a) "Independent entity" means an entity that:

48 (i) has a public purpose relating to the state or its citizens;

49 (ii) is individually created by the state;

50 (iii) is separate from the judicial and legislative branches of state government; and

51 (iv) is not under the direct supervisory control of the governor.

52 (b) "Independent entity" does not include an entity that is:

53 (i) a county;

54 (ii) a municipality as defined in Section [10-1-104](#);

55 (iii) an institution of higher education as defined in Section [53B-2-102](#);

56 (iv) a public school as defined in Section [53G-8-701](#);

57 (v) a special district as defined in Section [17B-1-102](#);

58 (vi) a special service district as defined in Section [17D-1-102](#);

59 (vii) created by an interlocal agreement as described in Section 11-13-203; or
 60 (viii) an elective constitutional office, including the state auditor, the state treasurer,
 61 and the attorney general.

62 (c) Independent entities that are subject to the provisions of this chapter include the:

63 (i) Career Service Review Office created in Section 67-19a-201;

64 (ii) Capitol Preservation Board created in Section 63C-9-201;

65 (iii) Colorado River Authority created in Section 63M-14-201;

66 (iv) Heber Valley Historic Railroad Authority created in Section 63H-4-102;

67 (v) Military Installation Development Authority created in Section 63H-1-201;

68 (vi) Office of the Great Salt Lake Commissioner created in Section 73-32-301;

69 (vii) Office of Inspector General of Medicaid Services created in Section 63A-13-201;

70 (viii) Point of the Mountain State Land Authority created in Section 11-59-201;

71 (ix) Public Service Commission created in Section 54-1-1;

72 (x) School and Institutional Trust Fund Office created in Section 53C-1-201;

73 (xi) School and Institutional Trust Lands Administration created in Section 53D-1-201;

74 (xii) Utah Beef Council created in Section 4-21-103;

75 (xiii) Utah Capital Investment Corporation created in Section 63N-6-301;

76 (xiv) Utah Communications Authority created in Section 63H-7a-201;

77 (xv) Utah Dairy Commission created in Section 4-22-103;

78 (xvi) Utah Education and Telehealth Network created in Section 53B-17-105;

79 (xvii) Utah Housing Corporation created in Section 63H-8-201;

80 (xviii) Utah Inland Port Authority created in Section 11-58-201;

81 (xix) Utah Innovation Lab created in Section 63N-20-201;

82 (xx) Utah Lake Authority created in Section 11-65-201;

83 (xxi) Utah Retirement Systems created in Section 49-11-201; and

84 (xxii) Utah State Fair Park Authority created in Section 11-68-201.

85 Section 2. Section **63H-9-102** is enacted to read:

86 **63H-9-102. Independent entity best practices.**

87 (1) An independent entity listed in Subsection 63H-9-101(4)(c) shall:

88 (a) use the best practices toolbox to assess the independent entity at least once each

89 year;

90 (b) report the results of the assessment described in Subsection (1)(a) to the consensus
91 group by December 31 of each year; and

92 (c) cooperate with the consensus group and, upon request from the consensus group,
93 provide information and material pertaining to an assessment described in Section [63H-9-103](#).

94 (2) An independent entity may request best practice training from the Office of the
95 Legislative Auditor General.

96 Section 3. Section **63H-9-103** is enacted to read:

97 **63H-9-103. Consensus group -- Duties -- Reports.**

98 (1) Subject to available work capacity, the consensus group shall:

99 (a) each year, conduct an assessment of one or more independent entities to determine
100 the state's exposure to risk from each independent entity;

101 (b) by August 1 of each year, provide a report on each assessment conducted under
102 Subsection (1)(a)(i) to the Legislative Management Committee, the governor, and the
103 governing body of the entity that is the subject of the assessment; and

104 (c) upon request, consult with interim committees that the Legislative Management
105 Committee assigns to review assessment reports under Section [63H-9-104](#).

106 (2) An assessment described in Subsection (1)(a):

107 (a) shall include an evaluation and analysis of an independent entity's:

108 (i) public purpose;

109 (ii) relative proximity to or independence from the state;

110 (iii) governance structure;

111 (iv) financial risks and controls, so far as they pertain to state funds;

112 (v) oversight structure; and

113 (vi) exemptions from state policies, procedures, and use of resources;

114 (b) shall include consideration of an executive branch agency to which an independent
115 entity may be accountable for the purposes of:

116 (i) mitigating risks identified through the consensus group's assessment; and

117 (ii) improving the independent entity's compliance with applicable state policies and
118 procedures.

119 (3) The consensus group shall determine which independent entity or entities to assess
120 each year based on a consideration of:

121 (a) information provided in each independent entity's assessment report under Section
122 63H-9-102;

123 (b) estimated exposure to risk from each independent entity;

124 (c) how recently each independent entity has been reviewed by the consensus group,
125 the state auditor, the Office of the Legislative Auditor General, or the Retirement and
126 Independent Entities Interim Committee; and

127 (d) any other factor the consensus group determines relevant.

128 (4) The consensus group shall:

129 (a) review each newly created entity that meets the definition of independent entity in
130 Subsection 63H-9-101(4)(a) to determine if the entity should be subject to the provisions of
131 this chapter;

132 (b) when possible, review a proposal to create a new entity that meets the definition of
133 independent entity to determine if the proposed entity should be subject to the provisions of
134 this chapter;

135 (c) make recommendations to the Legislature and governor concerning which entities
136 should be subject to the provisions of this chapter; and

137 (d) make recommendations to the Legislature and governor concerning any need to
138 modify the consensus group process or the provisions of this chapter.

139 (5) To fulfill the consensus group's duties under this section:

140 (a) the Governor's Office of Planning and Budget is responsible for:

141 (i) overseeing the work of the consensus group;

142 (ii) analyzing possible ways to mitigate risks identified through the assessment process;

143 and

144 (iii) preparing and presenting reports and recommendations required under this section;

145 (b) the state auditor is responsible for providing input on the consensus group's
146 processes in assessing risk to the state; and

147 (c) the Office of Legislative Research and General Counsel is responsible for providing
148 research and analysis concerning relevant statutes concerning an independent entity and how
149 comparable entities are structured in other jurisdictions.

150 Section 4. Section **63H-9-104** is enacted to read:

151 **63H-9-104. Assignment and study of reports.**

152 (1) By September 1 of each year, the Legislative Management Committee shall assign
153 each report provided pursuant to Section [63H-9-103](#) to an interim committee.

154 (2) An interim committee that is assigned a report under Subsection (1) shall:

155 (a) study the report during the interim committee's September interim meeting; and

156 (b) determine, by motion and majority vote, whether to open a committee bill file to
157 address issues related to the independent entity that is the subject of the report.

158 Section 5. **Effective date.**

159 This bill takes effect on May 1, 2024.