

Senator Michael K. McKell proposes the following substitute bill:

**INDEPENDENT ENTITIES AMENDMENTS**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Michael K. McKell**

House Sponsor: \_\_\_\_\_

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**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 the Governor's Office of Planning and Budget (office) to conduct an annual assessment of independent entities;
- ▶ requires the office 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 office 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



26 **Utah Code Sections Affected:**

27 ENACTS:

28 [63H-9-101](#), Utah Code Annotated 1953

29 [63H-9-102](#), Utah Code Annotated 1953

30 [63H-9-103](#), Utah Code Annotated 1953

31 [63H-9-104](#), Utah Code Annotated 1953



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

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

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

36 **[63H-9-101](#). Definitions.**

37 As used in this chapter:

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

42 (2) "Executive branch agency" means an agency or administrative subunit of state  
43 government that reports to the governor or lieutenant governor.

44 (3) (a) "Independent entity" means an entity that:

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

46 (ii) is individually created by the state;

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

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

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

50 (i) a county;

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

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

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

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

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

56 (vii) created by an interlocal agreement as described in Section [11-13-203](#); or

57 (viii) an elective constitutional office, including the state auditor, the state treasurer,  
58 and the attorney general.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

82 (4) "Office" means the Governor's Office of Planning and Budget.

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

84 **63H-9-102. Independent entity best practices.**

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

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

87 year;

88 (b) report the results of the assessment described in Subsection (1)(a) to the office by  
89 December 31 of each year; and

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

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

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

95 **63H-9-103. Assessment -- Reports.**

96 (1) Subject to available work capacity, the office shall:

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

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

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

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

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

106 (i) public purpose;

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

108 (iii) governance structure;

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

110 (v) oversight structure; and

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

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

114 (i) mitigating risks identified through the office's assessment; and

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

117 (3) The office shall determine which independent entity or entities to assess each year  
118 based on a consideration of:

119 (a) information provided in each independent entity's assessment report under Section  
120 63H-9-102;

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

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

125 (d) any other factor the office determines relevant.

126 (4) The office shall:

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

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

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

135 (d) make recommendations to the Legislature and governor concerning any need to  
136 modify the provisions of this chapter.

137 (5) To fulfill the office's duties under this section, the office may consult with the state  
138 auditor, the Office of the Legislative Auditor General, or the Office of Legislative Research  
139 and General Counsel.

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

141 **63H-9-104. Assignment and study of reports.**

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

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

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

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

148 Section 5. **Effective date.**

149 This bill takes effect on May 1, 2024.

