

UTAH INDEPENDENT ENTITIES AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: V. Lowry Snow

Senate Sponsor: _____

LONG TITLE

General Description:

This bill imposes certain compliance requirements on certain independent entities.

Highlighted Provisions:

This bill:

▶ requires certain independent entities to adopt policies similar to:

- the Funds Consolidation Act;
- the State Money Management Act;
- the Revenue Procedures and Control Act;
- the Budgetary Procedures Act;
- the Utah Procurement Code;
- the Utah Administrative Services Code; and
- the Utah State Personnel Management Act;

▶ requires the state auditor to:

- conduct annual performance and compliance audits on certain independent entities and report to the Legislature;
- review the results of required financial audits of certain independent entities;

and

▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

- 32 4-22-4.5, as last amended by Laws of Utah 2008, Chapter 382
- 33 4-22-8, as last amended by Laws of Utah 2004, Chapter 128
- 34 4-22-9, as enacted by Laws of Utah 1979, Chapter 2
- 35 49-11-201, as last amended by Laws of Utah 2014, Chapter 15
- 36 53C-1-201, as last amended by Laws of Utah 2016, Chapter 193
- 37 63E-2-109, as last amended by Laws of Utah 2012, Chapter 347
- 38 63E-2-110, as last amended by Laws of Utah 2011, Chapter 342
- 39 63H-1-201, as last amended by Laws of Utah 2016, Chapter 371
- 40 63H-1-202, as last amended by Laws of Utah 2015, Chapter 377
- 41 63H-4-108, as last amended by Laws of Utah 2013, Chapter 220
- 42 63H-5-107, as renumbered and amended by Laws of Utah 2011, Chapter 370
- 43 63H-5-108, as last amended by Laws of Utah 2012, Chapter 347
- 44 63H-6-103, as last amended by Laws of Utah 2016, Chapter 301
- 45 63H-6-108, as last amended by Laws of Utah 2016, Third Special Session, Chapter 2
- 46 63H-7a-803, as last amended by Laws of Utah 2016, Chapter 123
- 47 63H-8-204, as renumbered and amended by Laws of Utah 2015, Chapter 226
- 48 63H-8-406, as renumbered and amended by Laws of Utah 2015, Chapter 226
- 49 63N-6-301, as last amended by Laws of Utah 2015, Chapter 420 and renumbered and
- 50 amended by Laws of Utah 2015, Chapter 283
- 51 67-3-1, as last amended by Laws of Utah 2015, Chapter 174

52

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

54 Section 1. Section 4-22-4.5 is amended to read:

55 **4-22-4.5. Exemption from certain operational requirements.**

56 (1) The commission is exempt from:

57 [(1)] (a) Title 51, Chapter 5, Funds Consolidation Act;

58 [(2)] (b) Title 51, Chapter 7, State Money Management Act;

59 ~~[(3)]~~ (c) Title 63A, Utah Administrative Services Code;
 60 ~~[(4)]~~ (d) Title 63J, Chapter 1, Budgetary Procedures Act; and
 61 ~~[(5)]~~ (e) Title 67, Chapter 19, Utah State Personnel Management Act.

62 (2) The commission shall:

63 (a) adopt policies parallel to and consistent with:

64 (i) Title 51, Chapter 5, Funds Consolidation Act;

65 (ii) Title 51, Chapter 7, State Money Management Act;

66 (iii) Title 63A, Utah Administrative Services Code;

67 (iv) Title 63J, Chapter 1, Budgetary Procedures Act; and

68 (v) Title 67, Chapter 19, Utah State Personnel Management Act;

69 (b) submit to the state auditor:

70 (i) copies of the policies no later than November 9, 2017; and

71 (ii) any subsequent amendments to the policies no later than 30 days after adoption of
 72 the amendments; and

73 (c) post copies of the policies on the commission's website.

74 (3) To ensure compliance with Subsection (2), the commission is subject to
 75 performance and compliance audits by the state auditor under Subsection [67-3-1\(17\)](#).

76 Section 2. Section **4-22-8** is amended to read:

77 **4-22-8. Revenue from assessment used to promote dairy industry -- Deposit of**
 78 **funds -- Annual audit of books, records, and accounts -- Annual financial report to**
 79 **producers.**

80 (1) The revenue derived from the assessment imposed by Section [4-22-7](#) shall be used
 81 exclusively for the:

82 (a) administration of this chapter; and

83 (b) promotion of the state's dairy industry.

84 (2) (a) A voucher, receipt, or other written record for each withdrawal from the Utah
 85 Dairy Commission Fund shall be kept by the commission.

86 (b) No funds shall be withdrawn from the fund except upon order of the commission.

87 (3) The commission may deposit the proceeds of the assessment in one or more
 88 accounts in one or more banks approved by the state as depositories.

89 (4) The books, records, and accounts of the commission's activities are public records.

90 (5) ~~[(a) The accounts of the commission shall be audited once annually]~~ Once per
91 calendar year within 180 days after the fiscal year end, the commission shall:

92 (a) obtain a financial audit of the commission by a licensed accountant ~~[selected by]~~
93 whom the commission selects and ~~[approved by]~~ the state auditor~~[-]~~ approves;

94 (b) ~~[The]~~ submit the results of the audit ~~[shall be submitted]~~ to the:

95 (i) commissioner;

96 (ii) commission; ~~[and]~~

97 (iii) Division of Finance~~[-]~~; and

98 (iv) state auditor; and

99 (c) ~~[It is the responsibility of the commission to]~~ send annually a financial report to
100 each producer.

101 Section 3. Section **4-22-9** is amended to read:

102 **4-22-9. State disclaimer of liability.**

103 The state is not liable for the acts or omissions of the commission~~[-, its]~~ or the
104 commission's officers, agents, or employees, including any obligation, expense, debt, or
105 liability of the commission.

106 Section 4. Section **49-11-201** is amended to read:

107 **49-11-201. Establishment of retirement office -- An independent state agency --**
108 **Office exemption -- Audits -- Disclaimer of state liability.**

109 (1) (a) There is established the Utah State Retirement Office, which may also be
110 known and function as the Utah State Retirement Systems or the Utah Retirement Systems.

111 (b) The office shall administer the systems, plans, and programs and perform all other
112 functions assigned to it under this title.

113 (2) (a) The office is an independent state agency.

114 (b) ~~[It]~~ The office is subject to legislative and executive department budgetary review
115 and comment.

116 (3) The office may establish branch offices upon approval of the board.

117 (4) The board and office are exempt from those acts which are applicable to state and
118 other governmental entities under this code.

119 (5) The board shall:

120 (a) adopt policies parallel to and consistent with:

- 121 (i) Title 51, Chapter 5, Funds Consolidation Act;
- 122 (ii) Title 51, Chapter 7, State Money Management Act;
- 123 (iii) Title 63A, Utah Administrative Services Code;
- 124 (iv) Title 63G, Chapter 6a, Utah Procurement Code;
- 125 (v) Title 63J, Chapter 1, Budgetary Procedures Act; and
- 126 (vi) Title 67, Chapter 19, Utah State Personnel Management Act;
- 127 (b) submit to the state auditor:
- 128 (i) copies of the policies no later than November 9, 2017; and
- 129 (ii) any subsequent amendments to the policies no later than 30 days after adoption of
- 130 the amendments; and
- 131 (c) post copies of the policies on the website of the board or office.
- 132 (6) To ensure compliance with Subsection (5), the board and office are subject to
- 133 performance and compliance audits by the state auditor under Subsection 67-3-1(17).
- 134 (7) Once per calendar year within 180 days after the fiscal year end, the board shall:
- 135 (a) obtain a financial audit of the office by a licensed accountant whom the board
- 136 selects and the state auditor approves; and
- 137 (b) submit the results of the audit to the state auditor.
- 138 (8) The state is not liable for the acts or omissions of the office or the office's officers,
- 139 agents, or employees, including any obligation, expense, debt, or liability of the office.

140 Section 5. Section 53C-1-201 is amended to read:

141 **53C-1-201. Creation of administration -- Purpose -- Director -- Participation in**
142 **Risk Management Fund -- Audits -- Disclaimer of state liability.**

143 (1) (a) There is established within state government the School and Institutional Trust
144 Lands Administration.

145 (b) The administration shall manage all school and institutional trust lands and assets
146 within the state, except as otherwise provided in Title 53C, Chapter 3, Deposit and Allocation
147 of Revenue from Trust Lands, and Title 53D, Chapter 1, School and Institutional Trust Fund
148 Management Act.

149 (2) The administration is an independent state agency and not a division of any other
150 department.

151 (3) (a) [H] The administration is subject to the usual legislative and executive

152 department controls except as provided in this Subsection (3).

153 (b) (i) The director may make rules as approved by the board that allow the
154 administration to classify a business proposal submitted to the administration as protected
155 under Section 63G-2-305, for as long as is necessary to evaluate the proposal.

156 (ii) The administration shall return the proposal to the party who submitted the
157 proposal, and incur no further duties under Title 63G, Chapter 2, Government Records Access
158 and Management Act, if the administration determines not to proceed with the proposal.

159 (iii) The administration shall classify the proposal pursuant to law if it decides to
160 proceed with the proposal.

161 (iv) Section 63G-2-403 does not apply during the review period.

162 (c) The director shall make rules in compliance with Title 63G, Chapter 3, Utah
163 Administrative Rulemaking Act, except that the administration is not subject to Subsections
164 63G-3-301(6) and (7) and Section 63G-3-601, and the director, with the board's approval, may
165 establish a procedure for the expedited approval of rules, based on written findings by the
166 director showing:

167 (i) the changes in business opportunities affecting the assets of the trust;

168 (ii) the specific business opportunity arising out of those changes which may be lost
169 without the rule or changes to the rule;

170 (iii) the reasons the normal procedures under Section 63G-3-301 cannot be met without
171 causing the loss of the specific opportunity;

172 (iv) approval by at least five board members; and

173 (v) that the director has filed a copy of the rule and a rule analysis, stating the specific
174 reasons and justifications for its findings, with the Office of Administrative Rules and notified
175 interested parties as provided in Subsection 63G-3-301(10).

176 (d) (i) The administration shall comply with Title 67, Chapter 19, Utah State
177 Personnel Management Act, except as provided in this Subsection (3)(d).

178 (ii) The board may approve, upon recommendation of the director, that exemption for
179 specific positions under Subsections 67-19-12(2) and 67-19-15(1) is required in order to enable
180 the administration to efficiently fulfill its responsibilities under the law. The director shall
181 consult with the executive director of the Department of Human Resource Management prior
182 to making such a recommendation.

183 (iii) The positions of director, deputy director, associate director, assistant director,
184 legal counsel appointed under Section 53C-1-305, administrative assistant, and public affairs
185 officer are exempt under Subsections 67-19-12(2) and 67-19-15(1).

186 (iv) Salaries for exempted positions, except for the director, shall be set by the director,
187 after consultation with the executive director of the Department of Human Resource
188 Management, within ranges approved by the board. The board and director shall consider
189 salaries for similar positions in private enterprise and other public employment when setting
190 salary ranges.

191 (v) The board may create an annual incentive and bonus plan for the director and other
192 administration employees designated by the board, based upon the attainment of financial
193 performance goals and other measurable criteria defined and budgeted in advance by the board.

194 (e) (i) The administration shall comply with Title 63G, Chapter 6a, Utah Procurement
195 Code, except where the board approves, upon recommendation of the director, exemption from
196 the Utah Procurement Code, and simultaneous adoption of rules under Title 63G, Chapter 3,
197 Utah Administrative Rulemaking Act, for procurement, which enable the administration to
198 efficiently fulfill its responsibilities under the law.

199 (ii) If the board approves, upon recommendation of the director, exemption from Title
200 63G, Chapter 6a, Utah Procurement Code, the board shall:

201 (A) adopt policies parallel to and consistent with Title 63G, Chapter 6a, Utah
202 Procurement Code;

203 (B) submit to the state auditor copies of the policies no later than November 9, 2017,
204 and any subsequent amendments to the policies no later than 30 days after adoption of the
205 amendments; and

206 (C) post copies of the policies on the website of the board or administration.

207 (iii) To ensure compliance with this Subsection (3)(e), the board is subject to
208 performance and compliance audits by the state auditor under Subsection 67-3-1(17).

209 (f) (i) Except as provided in Subsection (3)(f)(ii), the administration is not subject to
210 the fee agency requirements of Section 63J-1-504.

211 (ii) The following fees of the administration are subject to the requirements of Section
212 63J-1-504: application, assignment, amendment, affidavit for lost documents, name change,
213 reinstatement, grazing nonuse, extension of time, partial conveyance, patent reissue, collateral

214 assignment, electronic payment, and processing.

215 (g) (i) The administration is not subject to Subsection 63J-1-206(3)(f).

216 (ii) Before transferring appropriated funds between line items, the administration shall
217 submit a proposal to the board for its approval.

218 (iii) If the board gives approval to a proposal to transfer appropriated funds between
219 line items, the administration shall submit the proposal to the Legislative Executive
220 Appropriations Committee for its review and recommendations.

221 (iv) The Legislative Executive Appropriations Committee may recommend:

222 (A) that the administration transfer the appropriated funds between line items;

223 (B) that the administration not transfer the appropriated funds between line items; or

224 (C) to the governor that the governor call a special session of the Legislature to
225 supplement the appropriated budget for the administration.

226 (4) The administration is managed by a director of school and institutional trust lands
227 appointed by a majority vote of the board of trustees with the consent of the governor.

228 (5) (a) The board of trustees shall provide policies for the management of the
229 administration and for the management of trust lands and assets.

230 (b) The board shall provide policies for the ownership and control of Native American
231 remains that are discovered or excavated on school and institutional trust lands in consultation
232 with the Division of Indian Affairs and giving due consideration to Title 9, Chapter 9, Part 4,
233 Native American Grave Protection and Repatriation Act. The director may make rules in
234 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement
235 policies provided by the board regarding Native American remains.

236 (6) In connection with joint ventures and other transactions involving trust lands and
237 minerals approved under Sections 53C-1-303 and 53C-2-401, the administration, with board
238 approval, may become a member of a limited liability company under Title 48, Chapter 3a,
239 Utah Revised Uniform Limited Liability Company Act, as appropriate pursuant to Section
240 48-3a-1405 and is considered a person under Section 48-3a-102.

241 (7) Subject to the requirements of Subsection 63E-1-304(2), the administration may
242 participate in coverage under the Risk Management Fund created by Section 63A-4-201.

243 (8) The state is not liable for the acts or omissions of the administration or the
244 administration's officers, agents, or employees, including any obligation, expense, debt, or

245 liability of the administration.

246 (9) Once per calendar year within 180 days after the fiscal year end, the administration

247 shall:

248 (a) obtain a financial audit of the administration by a licensed accountant whom the

249 board selects and the state auditor approves; and

250 (b) submit the results of the audit to the state auditor.

251 Section 6. Section **63E-2-109** is amended to read:

252 **63E-2-109. State statutes.**

253 (1) Except as specifically modified in its authorizing statute, each independent
254 corporation shall be exempt from the statutes governing state agencies, including:

255 (a) Title 51, Chapter 5, Funds Consolidation Act;

256 (b) Title 51, Chapter 7, State Money Management Act;

257 (c) Title 63A, Utah Administrative Services Code;

258 (d) Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

259 (e) Title 63G, Chapter 4, Administrative Procedures Act;

260 (f) Title 63G, Chapter 6a, Utah Procurement Code;

261 (g) Title 63J, Chapter 1, Budgetary Procedures Act;

262 (h) Title 63J, Chapter 2, Revenue Procedures and Control Act; and

263 (i) Title 67, Chapter 19, Utah State Personnel Management Act.

264 (2) Except as specifically modified in its authorizing statute, each independent
265 corporation shall be subject to:

266 (a) Title 52, Chapter 4, Open and Public Meetings Act; and

267 (b) Title 63G, Chapter 2, Government Records Access and Management Act.

268 (3) ~~[Each]~~ Subject to Subsection (4), each independent corporation board may adopt its
269 own policies and procedures governing its:

270 (a) funds management;

271 (b) audits; and

272 (c) personnel.

273 (4) (a) Each independent corporation board shall:

274 (i) adopt policies parallel to and consistent with:

275 (A) Title 51, Chapter 5, Funds Consolidation Act;

- 276 (B) Title 51, Chapter 7, State Money Management Act;
277 (C) Title 63A, Utah Administrative Services Code;
278 (D) Title 63G, Chapter 6a, Utah Procurement Code;
279 (E) Title 63J, Chapter 1, Budgetary Procedures Act; and
280 (F) Title 67, Chapter 19, Utah State Personnel Management Act;
281 (ii) submit to the state auditor;
282 (A) copies of the policies no later than November 9, 2017; and
283 (B) any subsequent amendments to the policies no later than 30 days after adoption of
284 the amendments; and
285 (iii) post copies of the policies on the website of the board or corporation.
286 (b) To ensure compliance with this Subsection (4), each independent corporation board
287 is subject to performance and compliance audits by the state auditor under Subsection
288 [67-3-1\(17\)](#).

289 Section 7. Section **63E-2-110** is amended to read:

290 **63E-2-110. Budgetary and fiscal requirements.**

291 (1) The board of each independent corporation shall annually adopt a budget.

292 (2) (a) All money held in trust by an independent corporation is not public funds, even
293 if they were public funds before the money was received by the independent corporation.

294 (b) The money of an independent corporation is not required to be held in the custody
295 of the state treasurer.

296 (3) Once per calendar year within 180 days after the fiscal year end, the board of each
297 independent corporation shall:

298 (a) obtain a financial audit of the independent corporation by a licensed accountant
299 whom the board selects and the state auditor approves; and

300 (b) submit the results of the audit to the state auditor.

301 Section 8. Section **63H-1-201** is amended to read:

302 **63H-1-201. Creation of military installation development authority -- Status and**
303 **powers of authority -- Limitation -- Disclaimer of state liability.**

304 (1) There is created a military installation development authority.

305 (2) The authority is:

306 (a) an independent, nonprofit, separate body corporate and politic, with perpetual

307 succession and statewide jurisdiction, whose purpose is to facilitate the development of
308 military land in a project area;

309 (b) a political subdivision of the state; and
310 (c) a public corporation, as defined in Section 63E-1-102.

311 (3) The authority may:

312 (a) as provided in this chapter, facilitate the development of land within one or more
313 project areas, including the ongoing operation of facilities within a project area;

314 (b) sue and be sued;

315 (c) enter into contracts generally;

316 (d) buy, obtain an option upon, or otherwise acquire any interest in real or personal
317 property:

318 (i) in a project area; or
319 (ii) outside a project area for publicly owned infrastructure and improvements, if the
320 board considers the purchase, option, or other interest acquisition to be necessary for fulfilling
321 the authority's development objectives;

322 (e) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or
323 personal property;

324 (f) enter into a lease agreement on real or personal property, either as lessee or lessor:

325 (i) in a project area; or
326 (ii) outside a project area, if the board considers the lease to be necessary for fulfilling
327 the authority's development objectives;

328 (g) provide for the development of land within a project area under one or more
329 contracts;

330 (h) exercise powers and perform functions under a contract, as authorized in the
331 contract;

332 (i) exercise exclusive police power within a project area to the same extent as though
333 the authority were a municipality, including the collection of regulatory fees;

334 (j) receive the property tax allocation and other taxes and fees as provided in this
335 chapter;

336 (k) accept financial or other assistance from any public or private source for the
337 authority's activities, powers, and duties, and expend any funds so received for any of the

338 purposes of this chapter;

339 (l) borrow money, contract with, or accept financial or other assistance from the federal
340 government, a public entity, or any other source for any of the purposes of this chapter and
341 comply with any conditions of the loan, contract, or assistance;

342 (m) issue bonds to finance the undertaking of any development objectives of the
343 authority, including bonds under Title 11, Chapter 17, Utah Industrial Facilities and
344 Development Act, and bonds under Title 11, Chapter 42, Assessment Area Act;

345 (n) hire employees, including contract employees;

346 (o) transact other business and exercise all other powers provided for in this chapter;

347 (p) enter into a development agreement with a developer of land within a project area;

348 (q) enter into an agreement with a political subdivision of the state under which the
349 political subdivision provides one or more municipal services within a project area;

350 (r) enter into an agreement with a private contractor to provide one or more municipal
351 services within a project area;

352 (s) provide for or finance an energy efficiency upgrade, a renewable energy system, or
353 electric vehicle charging infrastructure as defined in Section 11-42-102, in accordance with
354 Title 11, Chapter 42, Assessment Area Act;

355 (t) exercise powers and perform functions that the authority is authorized by statute to
356 exercise or perform; and

357 (u) enter into an agreement with the federal government or an agency of the federal
358 government under which the federal government or agency:

359 (i) provides law enforcement services only to military land within a project area; and

360 (ii) may enter into a mutual aid or other cooperative agreement with a law enforcement
361 agency of the state or a political subdivision of the state.

362 (4) The authority may not itself provide law enforcement service or fire protection
363 service within a project area but may enter into an agreement for one or both of those services,
364 as provided in Subsection (3)(q).

365 (5) The state is not liable for the acts or omissions of the authority or the authority's
366 officers, agents, or employees, including any obligation, expense, debt, or liability of the
367 authority.

368 Section 9. Section 63H-1-202 is amended to read:

369 **63H-1-202. Applicability of other law.**

370 (1) The authority or land within a project area is not subject to:

371 (a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act;

372 (b) Title 17, Chapter 27a, County Land Use, Development, and Management Act;

373 (c) ordinances or regulations of a county or municipality, including those relating to
374 land use, health, business license, or franchise; or375 (d) the jurisdiction of a local district under Title 17B, Limited Purpose Local
376 Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1,
377 Special Service District Act.378 (2) (a) The authority is subject to and governed by Sections [63E-2-106](#), [63E-2-107](#),
379 [63E-2-108](#), [63E-2-109](#), [63E-2-110](#), and [63E-2-111](#), but is not otherwise subject to or governed
380 by Title 63E, Independent Entities Code.

381 (b) The authority shall:

382 (i) adopt policies parallel to and consistent with:383 (A) Title 51, Chapter 5, Funds Consolidation Act;384 (B) Title 51, Chapter 7, State Money Management Act;385 (C) Title 63A, Utah Administrative Services Code;386 (D) Title 63G, Chapter 6a, Utah Procurement Code;387 (E) Title 63J, Chapter 1, Budgetary Procedures Act; and388 (F) Title 67, Chapter 19, Utah State Personnel Management Act;389 (ii) submit to the state auditor:390 (A) copies of the policies no later than November 9, 2017; and391 (B) any subsequent amendments to the policies no later than 30 days after adoption of
392 the amendments; and393 (iii) post copies of the policies on the authority's website.394 (c) To ensure compliance with Subsection (2)(b), the authority is subject to
395 performance and compliance audits by the state auditor under Subsection [67-3-1\(17\)](#).396 (3) (a) The definitions in Section [57-8-3](#) apply to this Subsection (3).397 (b) Notwithstanding the provisions of Title 57, Chapter 8, Condominium Ownership
398 Act, or any other provision of law:

399 (i) if the military is the owner of land in a project area on which a condominium project

400 is constructed, the military is not required to sign, execute, or record a declaration of a
 401 condominium project; and

402 (ii) if a condominium unit in a project area is owned by the military or owned by the
 403 authority and leased to the military for \$1 or less per calendar year, not including any common
 404 charges that are reimbursements for actual expenses:

405 (A) the condominium unit is not subject to any liens under Title 57, Chapter 8,
 406 Condominium Ownership Act;

407 (B) condominium unit owners within the same building or commercial condominium
 408 project may agree on any method of allocation and payment of common area expenses,
 409 regardless of the size or par value of each unit; and

410 (C) the condominium project may not be dissolved without the consent of all the
 411 condominium unit owners.

412 Section 10. Section **63H-4-108** is amended to read:

413 **63H-4-108. Relation to certain acts -- Participation in Risk Management Fund --**

414 **Disclaimer of state liability.**

415 (1) (a) The authority is exempt from:

416 [~~(a)~~] (i) Title 51, Chapter 5, Funds Consolidation Act;

417 [~~(b)~~] (ii) Title 63A, Utah Administrative Services Code;

418 [~~(c)~~] (iii) Title 63G, Chapter 6a, Utah Procurement Code;

419 [~~(d)~~] (iv) Title 63J, Chapter 1, Budgetary Procedures Act; and

420 [~~(e)~~] (v) Title 67, Chapter 19, Utah State Personnel Management Act.

421 (b) The authority shall:

422 (i) adopt policies parallel to and consistent with:

423 (A) Title 51, Chapter 5, Funds Consolidation Act;

424 (B) Title 63A, Utah Administrative Services Code;

425 (C) Title 63G, Chapter 6a, Utah Procurement Code;

426 (D) Title 63J, Chapter 1, Budgetary Procedures Act; and

427 (E) Title 67, Chapter 19, Utah State Personnel Management Act;

428 (ii) submit to the state auditor:

429 (A) copies of the policies no later than November 9, 2017; and

430 (B) any subsequent amendments to the policies no later than 30 days after adoption of

431 the amendments; and

432 (iii) post copies of the policies on the authority's website.

433 (c) To ensure compliance with Subsection (2)(b), the authority is subject to
434 performance and compliance audits by the state auditor under Subsection 67-3-1(17).

435 (2) (a) The authority is subject to audit by the state auditor pursuant to Title 67,
436 Chapter 3, Auditor, and by the legislative auditor general pursuant to Section 36-12-15.

437 (b) Once per calendar year within 180 days after the fiscal year end, the authority shall:

438 (i) obtain a financial audit of the authority by a licensed accountant whom the board
439 selects and the state auditor approves; and

440 (ii) submit the results of the audit to the state auditor.

441 (3) Subject to the requirements of Subsection 63E-1-304(2), the authority may
442 participate in coverage under the Risk Management Fund created by Section 63A-4-201.

443 (4) The state is not liable for the acts or omissions of the authority or the authority's
444 officers, agents, or employees, including any obligation, expense, debt, or liability of the
445 authority.

446 Section 11. Section 63H-5-107 is amended to read:

447 **63H-5-107. Notes, bonds, other obligation -- Not debt liability -- Expenses**
448 **payable from funds provided -- Agency without authority to incur liability on behalf of**
449 **state.**

450 (1) (a) An obligation or liability of the authority does not constitute:

451 (i) a debt or liability of the state or of any of its political subdivisions; or

452 (ii) the loaning of credit of the state or of any of its political subdivisions.

453 (b) An obligation or liability of the authority is payable only from money of the
454 authority.

455 (2) An obligation of the authority shall contain a statement to the effect:

456 (a) that the authority is obligated to pay the obligation solely from the revenues or other
457 money of the authority;

458 (b) that neither the state nor its political subdivisions are obligated to pay it; and

459 (c) that neither the faith and credit nor the taxing power of the state or any of its
460 political subdivisions is pledged to the payment of the obligation.

461 (3) (a) Expenses incurred in carrying out this chapter are payable solely from money of

462 the authority provided under this chapter.

463 (b) Nothing in this chapter authorizes the authority to incur indebtedness or liability on
464 behalf of or payable by the state or any of its political subdivisions.

465 (4) The state is not liable for the acts or omissions of the authority or the authority's
466 officers, agents, or employees.

467 Section 12. Section **63H-5-108** is amended to read:

468 **63H-5-108. Relation to certain acts.**

469 (1) (a) The authority is exempt from:

470 [~~(a)~~] (i) Title 51, Chapter 5, Funds Consolidation Act;

471 [~~(b)~~] (ii) Title 63A, Chapter 1, Department of Administrative Services;

472 [~~(c)~~] (iii) Title 63G, Chapter 6a, Utah Procurement Code;

473 [~~(d)~~] (iv) Title 63J, Chapter 1, Budgetary Procedures Act; and

474 [~~(e)~~] (v) Title 67, Chapter 19, Utah State Personnel Management Act.

475 (b) The authority shall:

476 (i) adopt policies parallel to and consistent with:

477 (A) Title 51, Chapter 5, Funds Consolidation Act;

478 (B) Title 63A, Utah Administrative Services Code;

479 (C) Title 63G, Chapter 6a, Utah Procurement Code;

480 (D) Title 63J, Chapter 1, Budgetary Procedures Act; and

481 (E) Title 67, Chapter 19, Utah State Personnel Management Act;

482 (ii) submit to the state auditor:

483 (A) copies of the policies no later than November 9, 2017; and

484 (B) any subsequent amendments to the policies no later than 30 days after adoption of
485 the amendments; and

486 (iii) post copies of the policies on the authority's website.

487 (c) To ensure compliance with Subsection (2)(b), the authority is subject to
488 performance and compliance audits by the state auditor under Subsection 67-3-1(17).

489 (2) (a) The authority is subject to audit by the state auditor pursuant to Title 67,
490 Chapter 3, Auditor, and by the legislative auditor general pursuant to Section 36-12-15.

491 (b) Once per calendar year within 180 days after the fiscal year end, the authority shall:

492 (i) obtain a financial audit of the authority by a licensed accountant whom the board

493 selects and the state auditor approves; and

494 (ii) submit the results of the audit to the state auditor.

495 Section 13. Section **63H-6-103** is amended to read:

496 **63H-6-103. Utah State Fair Corporation -- Legal status -- Powers -- Disclaimer of**
497 **state liability.**

498 (1) There is created an independent public nonprofit corporation known as the "Utah
499 State Fair Corporation."

500 (2) The board shall file articles of incorporation for the corporation with the Division
501 of Corporations and Commercial Code.

502 (3) The corporation, subject to this chapter, has all powers and authority permitted
503 nonprofit corporations by law.

504 (4) The corporation shall:

505 (a) manage, supervise, and control:

506 (i) all activities relating to the annual exhibition described in Subsection (4)(j); and

507 (ii) except as otherwise provided by statute, all state expositions, including setting the
508 time, place, and purpose of any state exposition;

509 (b) for public entertainment, displays, and exhibits or similar events:

510 (i) provide, sponsor, or arrange the events;

511 (ii) publicize and promote the events; and

512 (iii) secure funds to cover the cost of the exhibits from:

513 (A) private contributions;

514 (B) public appropriations;

515 (C) admission charges; and

516 (D) other lawful means;

517 (c) acquire and designate exposition sites;

518 (d) use generally accepted accounting principles in accounting for the corporation's
519 assets, liabilities, and operations;

520 (e) seek corporate sponsorships for the state fair park or for individual buildings or
521 facilities within the fair park;

522 (f) work with county and municipal governments, the Salt Lake Convention and
523 Visitor's Bureau, the Utah Travel Council, and other entities to develop and promote

524 expositions and the use of the state fair park;

525 (g) develop and maintain a marketing program to promote expositions and the use of
526 the state fair park;

527 (h) in accordance with provisions of this part, operate and maintain the state fair park,
528 including the physical appearance and structural integrity of the state fair park and the
529 buildings located at the state fair park;

530 (i) prepare an economic development plan for the state fair park;

531 (j) hold an annual exhibition that:

532 (i) is called the state fair or a similar name;

533 (ii) promotes and highlights agriculture throughout the state;

534 (iii) includes expositions of livestock, poultry, agricultural, domestic science,
535 horticultural, floricultural, mineral and industrial products, manufactured articles, and domestic
536 animals that, in the corporation's opinion will best stimulate agricultural, industrial, artistic, and
537 educational pursuits and the sharing of talents among the people of Utah;

538 (iv) includes the award of premiums for the best specimens of the exhibited articles
539 and animals;

540 (v) permits competition by livestock exhibited by citizens of other states and territories
541 of the United States; and

542 (vi) is arranged according to plans approved by the board;

543 (k) fix the conditions of entry to the annual exhibition described in Subsection (4)(j);

544 and

545 (l) publish a list of premiums that will be awarded at the annual exhibition described in
546 Subsection (4)(j) for the best specimens of exhibited articles and animals.

547 (5) In addition to the annual exhibition described in Subsection (4)(j), the corporation
548 may hold other exhibitions of livestock, poultry, agricultural, domestic science, horticultural,
549 floricultural, mineral and industrial products, manufactured articles, and domestic animals that,
550 in the corporation's opinion, will best stimulate agricultural, industrial, artistic, and educational
551 pursuits and the sharing of talents among the people of Utah.

552 (6) The corporation may:

553 (a) employ advisers, consultants, and agents, including financial experts and
554 independent legal counsel, and fix their compensation;

- 555 (b) (i) participate in the state's Risk Management Fund created under Section
 556 63A-4-201; or
- 557 (ii) procure insurance against any loss in connection with the corporation's property
 558 and other assets, including mortgage loans;
- 559 (c) receive and accept aid or contributions of money, property, labor, or other things of
 560 value from any source, including any grants or appropriations from any department, agency, or
 561 instrumentality of the United States or Utah;
- 562 (d) hold, use, loan, grant, and apply that aid and those contributions to carry out the
 563 purposes of the corporation, subject to the conditions, if any, upon which the aid and
 564 contributions were made;
- 565 (e) enter into management agreements with any person or entity for the performance of
 566 the corporation's functions or powers;
- 567 (f) establish whatever accounts and procedures as necessary to budget, receive, and
 568 disburse, account for, and audit all funds received, appropriated, or generated;
- 569 (g) subject to Subsection (8), lease any of the facilities at the state fair park;
- 570 (h) sponsor events as approved by the board; and
- 571 (i) enter into one or more agreements to develop the state fair park.
- 572 (7) (a) Except as provided in Subsection (7)~~(f)~~(d), as an independent agency of Utah,
 573 the corporation is exempt from:
- 574 (i) Title 51, Chapter 5, Funds Consolidation Act;
- 575 (ii) Title 51, Chapter 7, State Money Management Act;
- 576 (iii) Title 63A, Utah Administrative Services Code;
- 577 (iv) Title 63G, Chapter 6a, Utah Procurement Code;
- 578 (v) Title 63J, Chapter 1, Budgetary Procedures Act; and
- 579 (vi) Title 67, Chapter 19, Utah State Personnel Management Act.
- 580 (b) The board shall:
- 581 (i) adopt policies parallel to and consistent with:
- 582 ~~(i)~~ (A) Title 51, Chapter 5, Funds Consolidation Act;
- 583 ~~(ii)~~ (B) Title 51, Chapter 7, State Money Management Act;
- 584 ~~(iii)~~ (C) Title 63A, Utah Administrative Services Code;
- 585 ~~(iv)~~ (D) Title 63G, Chapter 6a, Utah Procurement Code; and

586 [~~(v)~~] (E) Title 63J, Chapter 1, Budgetary Procedures Act[-];
587 (ii) submit to the state auditor:
588 (A) copies of the policies no later than November 9, 2017; and
589 (B) any subsequent amendments to the policies no later than 30 days after adoption of
590 the amendments; and
591 (iii) post copies of the policies on the website of the board or corporation.
592 (c) To ensure compliance with Subsection (7)(b), the corporation is subject to
593 performance and compliance audits by the state auditor under Subsection 67-3-1(17).

594 [~~(e)~~] (d) The corporation shall comply with the legislative approval requirements for
595 new facilities established in Subsection 63A-5-104(3).

596 (8) (a) Before the corporation executes a lease described in Subsection (6)(g) with a
597 term of 10 or more years, the corporation shall:

598 (i) submit the proposed lease to the State Building Board for the State Building Board's
599 approval or rejection; and

600 (ii) if the State Building Board approves the proposed lease, submit the proposed lease
601 to the Executive Appropriations Committee for the Executive Appropriation Committee's
602 review and recommendation in accordance with Subsection (8)(b).

603 (b) The Executive Appropriations Committee shall review a proposed lease submitted
604 in accordance with Subsection (8)(a) and recommend to the corporation that the corporation:

605 (i) execute the proposed sublease; or

606 (ii) reject the proposed sublease.

607 Section 14. Section **63H-6-108** is amended to read:

608 **63H-6-108. Operation of the state fair park -- Disclaimer of state liability.**

609 (1) The corporation shall:

610 (a) operate and maintain the state fair park in accordance with the facility maintenance
611 standards approved by the State Building Board;

612 (b) pay for all costs associated with operating and maintaining the state fair park;

613 (c) obtain approval from the division before the corporation commences capital
614 developments or capital improvements on the state fair park that involve:

615 (i) a construction project that costs more than \$250,000; or

616 (ii) the construction of a new building that costs more than \$1,000,000;

- 617 (d) obtain a building permit from the division before commencing an activity that
618 requires a building permit;
- 619 (e) ensure that:
- 620 (i) any design plan related to the state fair park satisfies any applicable design standards
621 established by the division or the State Building Board; and
- 622 (ii) construction performed on the state fair park satisfies any applicable construction
623 standards established by the division or the State Building Board;
- 624 (f) for any new construction project on the state fair park that costs \$250,000 or more:
- 625 (i) notify the division before commencing the new construction project; and
- 626 (ii) coordinate with the division regarding review of design plans and construction
627 management;
- 628 (g) obtain approval from the division before the corporation makes any alteration or
629 addition to the water system, heating system, plumbing system, air conditioning system, or
630 electrical system;
- 631 (h) obtain approval from the State Building Board before the corporation demolishes a
632 building or facility on the state fair park;
- 633 (i) keep the state fair park fully insured to protect against loss or damage by fire,
634 vandalism, or malicious mischief;
- 635 (j) in accordance with Subsection (3), at the corporation's expense, and for the mutual
636 benefit of the division, maintain general public liability insurance in an amount equal to at least
637 \$1,000,000 through one or more companies that are:
- 638 (i) licensed to do business in the state;
- 639 (ii) selected by the corporation; and
- 640 (iii) approved by the division and the Division of Risk Management;
- 641 (k) ensure that the division is an additional insured with primary coverage on each
642 insurance policy that the corporation obtains in accordance with this section;
- 643 (l) give the division notice at least 30 days before the day on which the corporation
644 cancels any insurance policy that the corporation obtains in accordance with this section; and
- 645 (m) if any lien is recorded or filed against the state fair park as a result of an act or
646 omission of the corporation, cause the lien to be satisfied or cancelled within 10 days after the
647 day on which the corporation receives notice of the lien.

648 (2) The State Building Board shall notify the State Historic Preservation Office of any
649 State Building Board meeting at which the State Building Board will consider approval to
650 demolish a facility on the state fair park.

651 (3) The general public liability insurance described in Subsection (1)(j) shall:

652 (a) insure against any claim for personal injury, death, or property damage that occurs
653 at the state fair park; and

654 (b) be a blanket policy that covers all activities of the corporation.

655 (4) The division shall administer any capital improvements on the state fair park that
656 cost more than \$250,000.

657 (5) Upon 24 hours notice to the corporation, the division may enter the state fair park
658 to inspect the state fair park and make any repairs that the division determines necessary.

659 (6) If the corporation no longer operates as an independent public nonprofit corporation
660 as described in this chapter, the state shall assume the responsibilities of the corporation under
661 any contract that is:

662 (a) in effect as of the day on which the status of the corporation changes; and

663 (b) for the lease, construction, or development of a building or facility on the state fair
664 park.

665 (7) (a) A debt or obligation contracted by the corporation is a debt or obligation of the
666 corporation.

667 (b) The state is not liable and assumes no responsibility for any debt or obligation
668 described in Subsection (7)(a), unless the Legislature expressly:

669 (i) authorizes the corporation to contract for the debt or obligation; and

670 (ii) accepts liability or assumes responsibility for the debt or obligation.

671 (c) The state is not liable for the acts or omissions of the corporation or the
672 corporation's officers, agents, or employees.

673 (8) The provisions of this section apply notwithstanding any contrary provision in Title
674 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management.

675 Section 15. Section **63H-7a-803** is amended to read:

676 **63H-7a-803. Relation to certain acts -- Participation in Risk Management Fund --**
677 **Disclaimer of state liability.**

678 (1) The Utah Communications Authority is exempt from:

- 679 (a) Title 63A, Utah Administrative Services Code, except as provided in Section
 680 [63A-4-205.5](#);
- 681 (b) Title 63G, Chapter 4, Administrative Procedures Act;
- 682 (c) Title 63J, Chapter 1, Budgetary Procedures Act; and
- 683 (d) Title 67, Chapter 19, Utah State Personnel Management Act.
- 684 (2) (a) The board shall:
- 685 (i) adopt budgetary procedures, accounting, and personnel and human resource policies
 686 substantially similar to ~~[those]~~ the policies from which ~~[they have been exempted in]~~ the board
 687 is exempt under Subsection (1)[-];
- 688 (ii) submit to the state auditor:
- 689 (A) copies of the policies no later than November 9, 2017; and
- 690 (B) any subsequent amendments to the policies no later than 30 days after adoption of
 691 the amendments; and
- 692 (iii) post copies of the policies on the authority's website.
- 693 (b) The authority, the board, and the committee members are subject to Title 67,
 694 Chapter 16, Utah Public Officers' and Employees' Ethics Act.
- 695 (c) The authority is subject to Title 52, Chapter 4, Open and Public Meetings Act.
- 696 (3) To ensure compliance with Subsection (2)(a), the authority is subject to
 697 performance and compliance audits by the state auditor under Subsection [67-3-1\(17\)](#).
- 698 ~~[(3)]~~ (4) (a) Subject to the requirements of Subsection [63E-1-304\(2\)](#), the administration
 699 may participate in coverage under the Risk Management Fund created by Section [63A-4-201](#).
- 700 (b) The state is not liable for the acts or omissions of the authority or the authority's
 701 officers, agents, or employees, including any obligation, expense, debt, or liability of the
 702 authority.
- 703 Section 16. Section **63H-8-204** is amended to read:
- 704 **63H-8-204. Relation to certain acts.**
- 705 (1) (a) The corporation is exempt from:
- 706 ~~[(a)]~~ (i) Title 51, Chapter 5, Funds Consolidation Act;
- 707 ~~[(b)]~~ (ii) Title 51, Chapter 7, State Money Management Act;
- 708 ~~[(c)]~~ (iii) Title 63A, Utah Administrative Services Code;
- 709 ~~[(d)]~~ (iv) Title 63G, Chapter 6a, Utah Procurement Code;

- 710 ~~[(e)]~~ (v) Title 63J, Chapter 1, Budgetary Procedures Act;
- 711 ~~[(f)]~~ (vi) Title 63J, Chapter 2, Revenue Procedures and Control Act; and
- 712 ~~[(g)]~~ (vii) Title 67, Chapter 19, Utah State Personnel Management Act.
- 713 (b) The corporation shall:
- 714 (i) adopt policies parallel to and consistent with:
- 715 (A) Title 51, Chapter 5, Funds Consolidation Act;
- 716 (B) Title 51, Chapter 7, State Money Management Act;
- 717 (C) Title 63A, Utah Administrative Services Code;
- 718 (D) Title 63G, Chapter 6a, Utah Procurement Code;
- 719 (E) Title 63J, Chapter 1, Budgetary Procedures Act;
- 720 (F) Title 63J, Chapter 2, Revenue Procedures and Control Act; and
- 721 (G) Title 67, Chapter 19, Utah State Personnel Management Act;
- 722 (ii) submit to the state auditor:
- 723 (A) copies of the policies no later than November 9, 2017; and
- 724 (B) any subsequent amendments to the policies no later than 30 days after adoption of
- 725 the amendments; and
- 726 (iii) post copies of the policies on the corporation's website.
- 727 (2) The corporation shall comply with:
- 728 (a) Title 52, Chapter 4, Open and Public Meetings Act; and
- 729 (b) Title 63G, Chapter 2, Government Records Access and Management Act.
- 730 (3) To ensure compliance with this section, the corporation is subject to performance
- 731 and compliance audits by the state auditor under Subsection [67-3-1](#)(17).
- 732 Section 17. Section **63H-8-406** is amended to read:
- 733 **63H-8-406. Annual report to governor and Legislature -- Contents -- Audits.**
- 734 (1) (a) The corporation shall, following the close of each fiscal year, submit, by
- 735 October 1, an annual written report of its activities for the preceding year to the governor and
- 736 the Retirement and Independent Entities Interim Committee.
- 737 (b) Each report shall set forth a complete operating and financial statement of the
- 738 corporation during the fiscal year it covers.
- 739 (c) At least once each year, an independent certified public accountant shall audit the
- 740 books and accounts of the corporation.

741 (d) A complete copy of each annual audit report shall be:
742 (i) included in the report to the governor and the Legislature under Subsection (2);
743 (ii) submitted to the state auditor within 180 days after the fiscal year end;
744 [~~(ii)~~] (iii) available for public inspection at the corporation's office; and
745 [~~(iii)~~] (iv) made available to the public on the corporation's website.

746 (2) The corporation shall, each fiscal year, submit a budget of its operations to the
747 Legislature and the governor.

748 (3) (a) The corporation shall form an audit committee consisting of no less than three
749 trustees.

750 (b) The audit committee has exclusive authority to:

751 (i) select and engage the independent certified public accountant to audit the
752 corporation; and

753 (ii) supervise the audit.

754 (4) The corporation shall provide additional information upon request by the governor,
755 the Legislature, a legislative committee, the legislative auditor general, or the state auditor.

756 Section 18. Section **63N-6-301** is amended to read:

757 **63N-6-301. Utah Capital Investment Corporation -- Powers and purposes --**
758 **Disclaimer of the state liability.**

759 (1) (a) There is created an independent quasi-public nonprofit corporation known as the
760 Utah Capital Investment Corporation.

761 (b) The corporation:

762 (i) may exercise all powers conferred on independent corporations under Section
763 [63E-2-106](#);

764 (ii) is subject to the prohibited participation provisions of Section [63E-2-107](#); and

765 (iii) is subject to the other provisions of Title 63E, Chapter 2, Independent
766 Corporations Act, except as otherwise provided in this part.

767 (c) The corporation shall file with the Division of Corporations and Commercial Code:

768 (i) articles of incorporation; and

769 (ii) any amendment to its articles of incorporation.

770 (d) In addition to the articles of incorporation, the corporation may adopt bylaws and
771 operational policies that are consistent with this chapter.

772 (e) Except as otherwise provided in this part, this part does not exempt the corporation
773 from the requirements under state law which apply to other corporations organized under Title
774 63E, Chapter 2, Independent Corporations Act.

775 (2) The purposes of the corporation are to:

776 (a) organize the Utah fund of funds;

777 (b) select an investment fund allocation manager to make venture capital and private
778 equity fund investments by the Utah fund of funds;

779 (c) negotiate the terms of a contract with the investment fund allocation manager;

780 (d) execute the contract with the selected investment fund manager on behalf of the
781 Utah fund of funds;

782 (e) receive funds paid by designated investors for the issuance of certificates by the
783 board for private investment in the Utah fund of funds;

784 (f) receive investment returns from the Utah fund of funds; and

785 (g) establish the redemption reserve to be used by the corporation to redeem
786 certificates.

787 (3) The corporation may not:

788 (a) exercise governmental functions;

789 (b) have members;

790 (c) pledge the credit or taxing power of the state or any political subdivision of the
791 state; or

792 (d) make its debts payable out of any money except money of the corporation.

793 (4) (a) The obligations of the corporation are not obligations of the state or any
794 political subdivision of the state within the meaning of any constitutional or statutory debt
795 limitations, but are obligations of the corporation payable solely and only from the
796 corporation's funds.

797 (b) The state is not liable for the acts or omissions of the corporation or the
798 corporation's officers, agents, or employees.

799 (5) The corporation may:

800 (a) engage consultants and legal counsel;

801 (b) expend funds;

802 (c) invest funds;

- 803 (d) issue debt and equity, and borrow funds;
- 804 (e) enter into contracts;
- 805 (f) insure against loss;
- 806 (g) hire employees; and
- 807 (h) perform any other act necessary to carry out its purposes.
- 808 (6) (a) The corporation shall, in consultation with the board, publish on or before
- 809 September 1 an annual report of the activities conducted by the Utah fund of funds and submit
- 810 the report to the governor; the Business, Economic Development, and Labor Appropriations
- 811 Subcommittee; the Business and Labor Interim Committee; and the Retirement and
- 812 Independent Entities Interim Committee.
- 813 (b) The annual report shall:
- 814 (i) be designed to provide clear, accurate, and accessible information to the public, the
- 815 governor, and the Legislature;
- 816 (ii) include a copy of the audit of the Utah fund of funds described in Section
- 817 [63N-6-405](#);
- 818 (iii) include a detailed balance sheet, revenue and expenses statement, and cash flow
- 819 statement;
- 820 (iv) include detailed information regarding new fund commitments made during the
- 821 year, including the amount of money committed;
- 822 (v) include the net rate of return of the Utah fund of funds from the inception of the
- 823 Utah fund of funds, after accounting for all expenses, including administrative and financing
- 824 costs;
- 825 (vi) include detailed information regarding:
- 826 (A) realized gains from investments and any realized losses; and
- 827 (B) unrealized gains and any unrealized losses based on the net present value of
- 828 ongoing investments;
- 829 (vii) include detailed information regarding all yearly expenditures, including:
- 830 (A) administrative, operating, and financing costs;
- 831 (B) aggregate compensation information for full- and part-time employees, including
- 832 benefit and travel expenses; and
- 833 (C) expenses related to the allocation manager;

834 (viii) include detailed information regarding all funding sources for administrative,
835 operations, and financing expenses, including expenses charged by or to the Utah fund of
836 funds, including management and placement fees;

837 (ix) review the progress of the investment fund allocation manager in implementing its
838 investment plan and provide a general description of the investment plan;

839 (x) for each individual fund that the Utah fund of funds is invested in that represents at
840 least 5% of the net assets of the Utah fund of funds, include the name of the fund, the total
841 value of the fund, the fair market value of the Utah fund of funds' investment in the fund, and
842 the percentage of the total value of the fund held by the Utah fund of funds;

843 (xi) include the number of companies in Utah where an investment was made from a
844 fund that the Utah fund of funds is invested in, and provide an aggregate count of new full-time
845 employees in the state added by all companies where investments were made by funds that the
846 Utah fund of funds is invested in;

847 (xii) include an aggregate total value for all funds the Utah fund of funds is invested in,
848 and an aggregate total amount of money invested in the state by the funds the Utah fund of
849 funds is invested in;

850 (xiii) describe any redemption or transfer of a certificate issued under this part;

851 (xiv) include actual and estimated potential appropriations the Legislature will be
852 required to provide as a result of redeemed certificates or tax credits during the following five
853 years;

854 (xv) include an evaluation of the state's progress in accomplishing the purposes stated
855 in Section [63N-6-102](#); and

856 (xvi) be directly accessible to the public via a link from the main page of the Utah fund
857 of fund's website.

858 (c) The annual report may not identify a specific designated investor who has redeemed
859 or transferred a certificate.

860 Section 19. Section **67-3-1** is amended to read:

861 **67-3-1. Functions and duties.**

862 (1) (a) The state auditor is the auditor of public accounts and is independent of any
863 executive or administrative officers of the state.

864 (b) The state auditor is not limited in the selection of personnel or in the determination

865 of the reasonable and necessary expenses of the state auditor's office.

866 (2) The state auditor shall examine and certify annually in respect to each fiscal year,
867 financial statements showing:

868 (a) the condition of the state's finances;

869 (b) the revenues received or accrued;

870 (c) expenditures paid or accrued;

871 (d) the amount of unexpended or unencumbered balances of the appropriations to the
872 agencies, departments, divisions, commissions, and institutions; and

873 (e) the cash balances of the funds in the custody of the state treasurer.

874 (3) (a) The state auditor shall:

875 (i) audit each permanent fund, each special fund, the General Fund, and the accounts of
876 any department of state government or any independent agency or public corporation as the law
877 requires, as the auditor determines is necessary, or upon request of the governor or the
878 Legislature;

879 (ii) perform the audits in accordance with generally accepted auditing standards and
880 other auditing procedures as promulgated by recognized authoritative bodies;

881 (iii) as the auditor determines is necessary, conduct the audits to determine:

882 (A) honesty and integrity in fiscal affairs;

883 (B) accuracy and reliability of financial statements;

884 (C) effectiveness and adequacy of financial controls; and

885 (D) compliance with the law.

886 (b) If any state entity receives federal funding, the state auditor shall ensure that the
887 audit is performed in accordance with federal audit requirements.

888 (c) (i) The costs of the federal compliance portion of the audit may be paid from an
889 appropriation to the state auditor from the General Fund.

890 (ii) If an appropriation is not provided, or if the federal government does not
891 specifically provide for payment of audit costs, the costs of the federal compliance portions of
892 the audit shall be allocated on the basis of the percentage that each state entity's federal funding
893 bears to the total federal funds received by the state.

894 (iii) The allocation shall be adjusted to reflect any reduced audit time required to audit
895 funds passed through the state to local governments and to reflect any reduction in audit time

896 obtained through the use of internal auditors working under the direction of the state auditor.

897 (4) (a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to
898 financial audits, and as the auditor determines is necessary, conduct performance and special
899 purpose audits, examinations, and reviews of any entity that receives public funds, including a
900 determination of any or all of the following:

- 901 (i) the honesty and integrity of all its fiscal affairs;
- 902 (ii) whether or not its administrators have faithfully complied with legislative intent;
- 903 (iii) whether or not its operations have been conducted in an efficient, effective, and
904 cost-efficient manner;
- 905 (iv) whether or not its programs have been effective in accomplishing the intended
906 objectives; and
- 907 (v) whether or not its management, control, and information systems are adequate,
908 effective, and secure.

909 (b) The auditor may not conduct performance and special purpose audits,
910 examinations, and reviews of any entity that receives public funds if the entity:

- 911 (i) has an elected auditor; and
- 912 (ii) has, within the entity's last budget year, had its financial statements or performance
913 formally reviewed by another outside auditor.

914 (5) The state auditor shall administer any oath or affirmation necessary to the
915 performance of the duties of the auditor's office, and may subpoena witnesses and documents,
916 whether electronic or otherwise, and examine into any matter that the auditor considers
917 necessary.

918 (6) The state auditor may require all persons who have had the disposition or
919 management of any property of this state or its political subdivisions to submit statements
920 regarding it at the time and in the form that the auditor requires.

921 (7) The state auditor shall:

922 (a) except where otherwise provided by law, institute suits in Salt Lake County in
923 relation to the assessment, collection, and payment of its revenues against:

- 924 (i) persons who by any means have become entrusted with public money or property
925 and have failed to pay over or deliver the money or property; and
- 926 (ii) all debtors of the state;

- 927 (b) collect and pay into the state treasury all fees received by the state auditor;
- 928 (c) perform the duties of a member of all boards of which the state auditor is a member
929 by the constitution or laws of the state, and any other duties that are prescribed by the
930 constitution and by law;
- 931 (d) stop the payment of the salary of any state official or state employee who:
- 932 (i) refuses to settle accounts or provide required statements about the custody and
933 disposition of public funds or other state property;
- 934 (ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling
935 board or department head with respect to the manner of keeping prescribed accounts or funds;
936 or
- 937 (iii) fails to correct any delinquencies, improper procedures, and errors brought to the
938 official's or employee's attention;
- 939 (e) establish accounting systems, methods, and forms for public accounts in all taxing
940 or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;
- 941 (f) superintend the contractual auditing of all state accounts;
- 942 (g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of
943 property taxes from a state or local taxing or fee-assessing unit, if necessary, to ensure that
944 officials and employees in those taxing units comply with state laws and procedures in the
945 budgeting, expenditures, and financial reporting of public funds; and
- 946 (h) subject to Subsection (9), withhold the disbursement of tax money from any county,
947 if necessary, to ensure that officials and employees in the county comply with Section
948 [59-2-303.1](#).
- 949 (8) (a) Except as otherwise provided by law, the state auditor may not withhold funds
950 under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received formal
951 written notice of noncompliance from the auditor and has been given 60 days to make the
952 specified corrections.
- 953 (b) If, after receiving notice under Subsection (8)(a), a state or independent local
954 fee-assessing unit that exclusively assesses fees has not made corrections to comply with state
955 laws and procedures in the budgeting, expenditures, and financial reporting of public funds, the
956 state auditor:
- 957 (i) shall provide a recommended timeline for corrective actions; and

958 (ii) may prohibit the state or local fee-assessing unit from accessing money held by the
959 state; and

960 (iii) may prohibit a state or local fee-assessing unit from accessing money held in an
961 account of a financial institution by filing an action in district court requesting an order of the
962 court to prohibit a financial institution from providing the fee-assessing unit access to an
963 account.

964 (c) The state auditor shall remove a limitation on accessing funds under Subsection
965 (8)(b) upon compliance with state laws and procedures in the budgeting, expenditures, and
966 financial reporting of public funds.

967 (d) If a local taxing or fee-assessing unit has not adopted a budget in compliance with
968 state law, the state auditor:

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

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

973 (iii) may prohibit a taxing or fee-assessing unit from accessing money held in an
974 account of a financial institution by:

975 (A) contacting the taxing or fee-assessing unit's financial institution and requesting that
976 the institution prohibit access to the account; or

977 (B) filing an action in district court requesting an order of the court to prohibit a
978 financial institution from providing the taxing or fee-assessing unit access to an account.

979 (e) If the local taxing or fee-assessing unit adopts a budget in compliance with state
980 law, the state auditor shall eliminate a limitation on accessing funds described in Subsection
981 (8)(d).

982 (9) The state auditor may not withhold funds under Subsection (7)(h) until a county has
983 received formal written notice of noncompliance from the auditor and has been given 60 days
984 to make the specified corrections.

985 (10) Notwithstanding Subsection (7)(g), (7)(h), (8)(b), or (8)(d) the state auditor:

986 (a) shall authorize a disbursement by a state or local taxing or fee-assessing unit if the
987 disbursement is necessary to:

988 (i) avoid a major disruption in the operations of the state or local taxing or

989 fee-assessing unit; or

990 (ii) meet debt service obligations; and

991 (b) may authorize a disbursement by a state or local taxing or fee-assessing unit as the
992 state auditor determines is appropriate.

993 (11) The state auditor shall:

994 (a) establish audit guidelines and procedures for audits of local mental health and
995 substance abuse authorities and their contract providers, conducted pursuant to Title 17,
996 Chapter 43, Part 2, Local Substance Abuse Authorities, and Part 3, Local Mental Health
997 Authorities, Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal
998 Organizations, and Other Local Entities Act, and Title 62A, Chapter 15, Substance Abuse and
999 Mental Health Act; and

1000 (b) ensure that those guidelines and procedures provide assurances to the state that:

1001 (i) state and federal funds appropriated to local mental health authorities are used for
1002 mental health purposes;

1003 (ii) a private provider under an annual or otherwise ongoing contract to provide
1004 comprehensive mental health programs or services for a local mental health authority is in
1005 compliance with state and local contract requirements, and state and federal law;

1006 (iii) state and federal funds appropriated to local substance abuse authorities are used
1007 for substance abuse programs and services; and

1008 (iv) a private provider under an annual or otherwise ongoing contract to provide
1009 comprehensive substance abuse programs or services for a local substance abuse authority is in
1010 compliance with state and local contract requirements, and state and federal law.

1011 (12) The state auditor may, in accordance with the auditor's responsibilities for political
1012 subdivisions of the state as provided in Title 51, Chapter 2a, Accounting Reports from Political
1013 Subdivisions, Interlocal Organizations, and Other Local Entities Act, initiate audits or
1014 investigations of any political subdivision that are necessary to determine honesty and integrity
1015 in fiscal affairs, accuracy and reliability of financial statements, effectiveness, and adequacy of
1016 financial controls and compliance with the law.

1017 (13) (a) The state auditor may not audit work that the state auditor performed before
1018 becoming state auditor.

1019 (b) If the state auditor has previously been a responsible official in state government

1020 whose work has not yet been audited, the Legislature shall:

- 1021 (i) designate how that work shall be audited; and
- 1022 (ii) provide additional funding for those audits, if necessary.

1023 (14) The state auditor shall:

1024 (a) with the assistance, advice, and recommendations of an advisory committee
1025 appointed by the state auditor from among local district boards of trustees, officers, and
1026 employees and special service district boards, officers, and employees:

1027 (i) prepare a Uniform Accounting Manual for Local Districts that:

1028 (A) prescribes a uniform system of accounting and uniform budgeting and reporting
1029 procedures for local districts under Title 17B, Limited Purpose Local Government Entities -
1030 Local Districts, and special service districts under Title 17D, Chapter 1, Special Service
1031 District Act;

1032 (B) conforms with generally accepted accounting principles; and

1033 (C) prescribes reasonable exceptions and modifications for smaller districts to the
1034 uniform system of accounting, budgeting, and reporting;

1035 (ii) maintain the manual under Subsection (14)(a) so that it continues to reflect
1036 generally accepted accounting principles;

1037 (iii) conduct a continuing review and modification of procedures in order to improve
1038 them;

1039 (iv) prepare and supply each district with suitable budget and reporting forms; and

1040 (v) prepare instructional materials, conduct training programs, and render other
1041 services considered necessary to assist local districts and special service districts in
1042 implementing the uniform accounting, budgeting, and reporting procedures; and

1043 (b) continually analyze and evaluate the accounting, budgeting, and reporting practices
1044 and experiences of specific local districts and special service districts selected by the state
1045 auditor and make the information available to all districts.

1046 (15) (a) The following records in the custody or control of the state auditor are
1047 protected records under Title 63G, Chapter 2, Government Records Access and Management
1048 Act:

1049 (i) records that would disclose information relating to allegations of personal
1050 misconduct, gross mismanagement, or illegal activity of a past or present governmental

1051 employee if the information or allegation cannot be corroborated by the state auditor through
1052 other documents or evidence, and the records relating to the allegation are not relied upon by
1053 the state auditor in preparing a final audit report;

1054 (ii) records and audit workpapers to the extent they would disclose the identity of a
1055 person who during the course of an audit, communicated the existence of any waste of public
1056 funds, property, or manpower, or a violation or suspected violation of a law, rule, or regulation
1057 adopted under the laws of this state, a political subdivision of the state, or any recognized entity
1058 of the United States, if the information was disclosed on the condition that the identity of the
1059 person be protected;

1060 (iii) before an audit is completed and the final audit report is released, records or drafts
1061 circulated to a person who is not an employee or head of a governmental entity for their
1062 response or information;

1063 (iv) records that would disclose an outline or part of any audit survey plans or audit
1064 program; and

1065 (v) requests for audits, if disclosure would risk circumvention of an audit.

1066 (b) The provisions of Subsections (15)(a)(i), (ii), and (iii) do not prohibit the disclosure
1067 of records or information that relate to a violation of the law by a governmental entity or
1068 employee to a government prosecutor or peace officer.

1069 (c) The provisions of this Subsection (15) do not limit the authority otherwise given to
1070 the state auditor to classify a document as public, private, controlled, or protected under Title
1071 63G, Chapter 2, Government Records Access and Management Act.

1072 (d) (i) As used in this Subsection (15)(d), "record dispute" means a dispute between the
1073 state auditor and the subject of an audit performed by the state auditor as to whether the state
1074 auditor may release a record, as defined in Section [63G-2-103](#), to the public that the state
1075 auditor gained access to in the course of the state auditor's audit but which the subject of the
1076 audit claims is not subject to disclosure under Title 63G, Chapter 2, Government Records
1077 Access and Management Act.

1078 (ii) The state auditor may submit a record dispute to the State Records Committee,
1079 created in Section [63G-2-501](#), for a determination of whether the state auditor may, in
1080 conjunction with the state auditor's release of an audit report, release to the public the record
1081 that is the subject of the record dispute.

1082 (iii) The state auditor or the subject of the audit may seek judicial review of a State
1083 Records Committee determination under Subsection (15)(d)(ii), as provided in Section
1084 [63G-2-404](#).

1085 (16) If the state auditor conducts an audit of an entity that the state auditor has
1086 previously audited and finds that the entity has not implemented a recommendation made by
1087 the state auditor in a previous audit, the state auditor shall notify the Legislative Management
1088 Committee through its audit subcommittee that the entity has not implemented that
1089 recommendation.

1090 (17) (a) The state auditor shall review the policies and amendments to the policies of
1091 the following independent state entities:

1092 (i) independent corporations, to ensure compliance with Subsection [63E-2-109\(4\)](#),
1093 including:

1094 (A) the Military Installation Development Authority, to ensure compliance with
1095 Subsections [63H-1-202\(2\)\(b\)](#) and (c);

1096 (B) the Utah State Railroad Museum Authority, to ensure compliance with Subsection
1097 [63H-5-108\(1\)](#);

1098 (C) the Utah State Fair Corporation, to ensure compliance with Subsection
1099 [63H-6-103\(7\)](#);

1100 (D) the Utah Housing Corporation, to ensure compliance with Subsection
1101 [63H-8-204\(1\)](#); and

1102 (E) the Utah Capital Investment Corporation, to ensure compliance with Subsection
1103 [63N-6-412\(1\)](#);

1104 (ii) the Utah Dairy Commission, to ensure compliance with Subsection [4-22-4.5\(2\)](#);

1105 (iii) the Utah State Retirement Office, to ensure compliance with Subsection
1106 [49-11-201\(4\)](#);

1107 (iv) the School and Institutional Trust Lands Administration, to ensure compliance
1108 with Subsection [53C-1-201\(3\)\(e\)](#);

1109 (v) the Heber Valley Historic Railroad Authority, to ensure compliance with
1110 Subsection [63H-4-108\(1\)](#); and

1111 (vi) the Utah Communications Authority, to ensure compliance with Subsection
1112 [63H-7a-803\(2\)](#).

1113 (b) Once per calendar year, the state auditor shall review the results of the financial
1114 audits required in Sections 63H-1-704 and 63N-6-405 and Subsections 4-22-8(5),
1115 49-11-201(7), 53C-1-201(9), 63E-2-110(3), 63H-4-108(2)(b), 63H-5-108(2)(b), and
1116 63H-8-406(1)(d).

1117 (c) The state auditor shall conduct a performance audit of each independent entity once
1118 every five years on a rolling basis.

1119 (d) Once per calendar year, the state auditor shall send to each independent entity a
1120 notice describing the:

1121 (i) governmental procedures to which the entity is subject or to which the policies of
1122 the entity are required to parallel, including the policies described in Subsection (17)(a);

1123 (ii) requirement to submit financial audit results identified in Subsection (17)(b); and

1124 (iii) state auditor's responsibilities under this Subsection (17).

Legislative Review Note
Office of Legislative Research and General Counsel