Trevor Lee proposes the following substitute bill:

Flag Display Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Trevor Lee

Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill allows the display of certain flags on government property.

Highlighted Provisions:

This bill:

- defines terms;
- prohibits a government entity or employee of a government entity from displaying a flag in or on the grounds of government property except certain exempted flags;
- requires the state auditor to ensure compliance, including by imposing fines;
- **Ĥ→ [~~establishes a cause of action for an alleged violation within the public education system;~~] ←Ĥ**
- requires the attorney general to defend and the state to hold harmless an individual acting under color of state law to enforce the flag display statute within the public education system; and
- provides severability.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

67-3-1, as last amended by Laws of Utah 2024, Chapters 3, 158

ENACTS:

63G-1-704, Utah Code Annotated 1953

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

Section 1. Section **63G-1-704** is enacted to read:

63G-1-704 . Display of flags on government property -- Indemnification -- Severability.

(1) As used in this section:

(a) "Display" means, in regards to a flag, to place a flag in a prominent location on government property where the flag is easily visible.

(b) "Flag" means Ĥ→ [:] **a usually rectangular piece of fabric with a specific design that symbolizes that symbolizes a location, government entity, or cause.**

[**~~(i) a usually rectangular piece of fabric with a specific design that symbolizes a~~**] ←Ĥ

Ĥ→ [**~~location, government, entity, or cause; or~~**]

[**~~(ii) a depiction of the fabric described in Subsection (1)(b)(i).~~**] ←Ĥ

(c) "Government entity" means:

(i) any local government entity, as defined in Section 63A-5b-901, including a school within the public education system; or

(ii) any state agency, as defined in Section 63A-5b-901.

(d) "Government property" means any property under the ownership or control of a government entity.

(e) "LEA governing board" means the same as that term is defined in Section 53E-1-102.

(2) Except as provided in Subsection (3), a government entity Ĥ→ **,** ←Ĥ or Ĥ→ **an** ←Ĥ employee of a Ĥ→ [**~~government~~**] ←Ĥ Ĥ→ [**~~entity~~** Ĥ→ **~~within a classroom of a school within the public education system~~**] **school district or school within the public education system acting within the employee's official duties** ←Ĥ **,** ←Ĥ may not:

(a) display a flag in or on the grounds of government property; or

(b) display an exempt flag described in Subsection (3) with alterations in color, symbols, or appearance.

(3) The prohibition described in Subsection (2) does not apply to the following flags:

(a) the official flag of the United States described in Title 4 U.S.C., Ch. 1, The Flag, and Executive Order 1959-10834, and in accordance with Section 53G-7-211;

(b) an official Utah state flag as described in Title 63G, Chapter 1, Part 5, State Flags;

(c) the current and official flag of another country, state, or political subdivision of another country or state;

(d) a flag that represents a city, municipality, county, or political subdivision of the state, as those terms are defined in Sections 10-1-104, 10-2-301, 17-50-101, and 17B-1-102;

(e) a flag that represents a branch, unit, or division of the United States military;

(f) the National League of Families POW/MIA flag as described in 36 U.S.C. Sec. 902;

(g) a flag that represents an Indian tribe as defined in federal law;

(h) an officially licensed flag of a college or university Ŝ→ **depicting only the colors, logos, and marks consistent with official college or university branding** ←Ŝ ;

(i) a historic version of a flag described in Subsections (3)(a) Ĥ→ [~~**through (h)**~~] **and (b)** ←Ĥ Ŝ→ [~~**that is**~~] ←Ŝ Ŝ→ [~~**temporarily displayed for educational purposes**~~] ←Ŝ ;

(j) an official public school flag; Ĥ→ [~~**or**~~]

(k) an official flag of the United States Olympic Committee, United States Paralympic Committee, International Olympic Committee, or International Paralympic Committee;

(l) an official flag of an olympiad or paralympiad that occurred or will occur within the state; or

[~~**(k)**~~] **(m)** ←Ĥ a flag of an organization authorized to use a public school facility at the location and during the time in which the organization is authorized to use the public school facility.

(4)(a) The state auditor shall:

(i) establish a process to receive and investigate alleged violations of this section;

(ii) provide notice to the relevant government entity of:

(A) each alleged violation of this section involving the government entity;

(B) each violation that the state auditor determines to be substantiated, including an opportunity to cure the violation not to exceed 30 calendar days;

(iii) if a government entity, other than a school district or a school within the public education system, fails to cure a violation in accordance with Subsection (4)(a)(ii)(B), impose a fine of $500 per violation per day; and

(iv) deposit fines described in Subsection (4)(a)(iii) into the General Fund.

(b) A government entity may seek judicial review of a fine the state auditor imposes under this section to determine whether the imposition of the fine is clearly erroneous.

Ĥ→ [~~**(5)(a) Subject to Subsection (5)(b), a parent or legal guardian of a student who is**~~] ←Ĥ Ĥ→ [~~**enrolled in and attends, or who is eligible to enroll in and attend, a school within the**~~] ←Ĥ Ĥ→ [~~**public education system or the Utah Schools for the Deaf and the Blind, may bring an**~~] ←Ĥ Ĥ→ [~~**action in the appropriate state court for an alleged violation of this section.**~~]

[~~**(b)(i) Before a parent may file an action for an alleged violation described in**~~] ←Ĥ Ĥ→ [~~**Subsection (5)(a), the parent shall provide written notice of the alleged violation**~~] ←Ĥ Ĥ→ [~~**to the appropriate LEA governing board.**~~]

[~~**(ii) An LEA governing board receiving a notice described in Subsection (5)(b)(i)**~~] ←Ĥ Ĥ→ [~~**shall resolve or disprove the alleged violation within 10 days after the day on**~~] ←Ĥ Ĥ→ [~~**which the parent provides the written notice.**~~]

[~~(c)~~] **(5)** ←Ĥ Nothing in this section Ĥ→ [~~**limits the authority of**~~] **, for** ←Ĥ a local education agency, as defined in Section 53E-1-102 Ĥ→ [~~,~~] **:**

(a) limits the authority of the agency ←Ĥ related to student expression under applicable federal or state law Ĥ→ [~~.~~] **; or**

(b) removes the agency's obligation to protect all students from discrimination. ←Ĥ

(6) Regarding a school district or a school within the public education system, the attorney general shall defend and the state shall indemnify and hold harmless a person acting under color of state law to enforce this section for any claims or damages, including court costs and attorney fees, that:

(a) arise as a result of this section; and

(b) are not covered by the person's insurance policies or by any coverage agreement the State Risk Management Fund issues.

(7) If any provision of this section or the application of any provision of this section to any person or circumstance is held invalid by a final decision of a court, the remainder of this section shall be given effect without the invalidated provision or application.

Section 2. Section **67-3-1** is amended to read:

67-3-1 . Functions and duties.

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

(b) The state auditor is not limited in the selection of personnel or in the determination of the reasonable and necessary expenses of the state auditor's office.

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

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

(b) the revenues received or accrued;

(c) expenditures paid or accrued;

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

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

(3)(a) The state auditor shall:

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

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

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

(A) honesty and integrity in fiscal affairs;

(B) accuracy and reliability of financial statements;

(C) effectiveness and adequacy of financial controls; and

(D) compliance with the law.

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

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

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

(iii) The allocation shall be adjusted to reflect any reduced audit time required to audit funds passed through the state to local governments and to reflect any reduction in audit time obtained through the use of internal auditors working under the direction of the state auditor.

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

(i) the honesty and integrity of all the entity's fiscal affairs;

(ii) whether the entity's administrators have faithfully complied with legislative intent;

(iii) whether the entity's operations have been conducted in an efficient, effective, and cost-efficient manner;

(iv) whether the entity's programs have been effective in accomplishing the intended objectives; and

(v) whether the entity's management, control, and information systems are adequate, effective, and secure.

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

(i) has an elected auditor; and

(ii) has, within the entity's last budget year, had the entity's financial statements or performance formally reviewed by another outside auditor.

(5) The state auditor:

(a) shall administer any oath or affirmation necessary to the performance of the duties of the auditor's office; and

(b) may:

(i) subpoena witnesses and documents, whether electronic or otherwise; and

(ii) examine into any matter that the auditor considers necessary.

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

(7) The state auditor shall:

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

(i) persons who by any means have become entrusted with public money or property and have failed to pay over or deliver the money or property; and

(ii) all debtors of the state;

(b) collect and pay into the state treasury all fees received by the state auditor;

(c) perform the duties of a member of all boards of which the state auditor is a member by the constitution or laws of the state, and any other duties that are prescribed by the constitution and by law;

(d) stop the payment of the salary of any state official or state employee who:

(i) refuses to settle accounts or provide required statements about the custody and disposition of public funds or other state property;

(ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling board or department head with respect to the manner of keeping prescribed accounts or funds; or

(iii) fails to correct any delinquencies, improper procedures, and errors brought to the official's or employee's attention;

(e) establish accounting systems, methods, and forms for public accounts in all taxing or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;

(f) superintend the contractual auditing of all state accounts;

(g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of property taxes from a state or local taxing or fee-assessing unit, if necessary, to ensure that officials and employees in those taxing units comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds;

(h) subject to Subsection (9), withhold the disbursement of tax money from any county, if necessary, to ensure that officials and employees in the county comply with Section 59-2-303.1; and

(i) withhold state allocated funds or the disbursement of property taxes from a local government entity or a limited purpose entity, as those terms are defined in Section 67-1a-15 if the state auditor finds the withholding necessary to ensure that the entity registers and maintains the entity's registration with the lieutenant governor, in accordance with Section 67-1a-15.

(8)(a) Except as otherwise provided by law, the state auditor may not withhold funds under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(b) If, after receiving notice under Subsection (8)(a), a state or independent local fee-assessing unit that exclusively assesses fees has not made corrections to comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds, the state auditor:

(i) shall provide a recommended timeline for corrective actions;

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

(iii) may prohibit a state or local fee-assessing unit from accessing money held in an account of a financial institution by filing an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, requesting an order of the court to prohibit a financial institution from providing the fee-assessing unit access to an account.

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

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

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

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

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

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

(B) filing an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, requesting an order of the court to prohibit a financial institution from providing the taxing or fee-assessing unit access to an account.

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

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

(10)(a) The state auditor may not withhold funds under Subsection (7)(i) until the state auditor receives a notice of non-registration, as that term is defined in Section 67-1a-15.

(b) If the state auditor receives a notice of non-registration, the state auditor may prohibit the local government entity or limited purpose entity, as those terms are defined in Section 67-1a-15, from accessing:

(i) money held by the state; and

(ii) money held in an account of a financial institution by:

(A) contacting the entity's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, requesting an order of the court to prohibit a financial institution from providing the entity access to an account.

(c) The state auditor shall remove the prohibition on accessing funds described in Subsection (10)(b) if the state auditor received a notice of registration, as that term is defined in Section 67-1a-15, from the lieutenant governor.

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

(a) shall authorize a disbursement by a local government entity or limited purpose entity, as those terms are defined in Section 67-1a-15, or a state or local taxing or fee-assessing unit if the disbursement is necessary to:

(i) avoid a major disruption in the operations of the local government entity, limited purpose entity, or state or local taxing or fee-assessing unit; or

(ii) meet debt service obligations; and

(b) may authorize a disbursement by a local government entity, limited purpose entity, or state or local taxing or fee-assessing unit as the state auditor determines is appropriate.

(12)(a) The state auditor may seek relief under the Utah Rules of Civil Procedure to take temporary custody of public funds if an action is necessary to protect public funds from being improperly diverted from their intended public purpose.

(b) If the state auditor seeks relief under Subsection (12)(a):

(i) the state auditor is not required to exhaust the procedures in Subsection (7) or (8); and

(ii) the state treasurer may hold the public funds in accordance with Section 67-4-1 if a court orders the public funds to be protected from improper diversion from their public purpose.

(13) The state auditor shall:

(a) establish audit guidelines and procedures for audits of local mental health and substance abuse authorities and their contract providers, conducted pursuant to Title 17, Chapter 43, Part 2, Local Substance Abuse Authorities, Title 17, Chapter 43, Part 3, Local Mental Health Authorities, Title 26B, Chapter 5, Health Care - Substance Use and Mental Health, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act; and

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

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

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

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

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

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

(b) If the state auditor receives notice under Subsection 11-41-104(7) from the Governor's Office of Economic Opportunity on or after July 1, 2024, the state auditor may initiate an audit or investigation of the public entity subject to the notice to determine compliance with Section 11-41-103.

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

(b) If the state auditor has previously been a responsible official in state government whose work has not yet been audited, the Legislature shall:

(i) designate how that work shall be audited; and

(ii) provide additional funding for those audits, if necessary.

(16) The state auditor shall:

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

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

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

(B) conforms with generally accepted accounting principles; and

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

(ii) maintain the manual under this Subsection (16)(a) so that the manual continues to reflect generally accepted accounting principles;

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

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

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

(B) ensure that any training described in Subsection (16)(a)(v)(A) complies with Title 63G, Chapter 22, State Training and Certification Requirements; and

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

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

(i) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a past or present governmental employee if the information or allegation cannot be corroborated by the state auditor through other documents or evidence, and the records relating to the allegation are not relied upon by the state auditor in preparing a final audit report;

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

(iii) before an audit is completed and the final audit report is released, records or drafts circulated to an individual who is not an employee or head of a governmental entity for the individual's response or information;

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

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

(b) The provisions of Subsections (17)(a)(i), (ii), and (iii) do not prohibit the disclosure of records or information that relate to a violation of the law by a governmental entity or employee to a government prosecutor or peace officer.

(c) The provisions of this Subsection (17) do not limit the authority otherwise given to the state auditor to classify a document as public, private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

(d)(i) As used in this Subsection (17)(d), "record dispute" means a dispute between the state auditor and the subject of an audit performed by the state auditor as to whether the state auditor may release a record, as defined in Section 63G-2-103, to the public that the state auditor gained access to in the course of the state auditor's audit but which the subject of the audit claims is not subject to disclosure under Title 63G, Chapter 2, Government Records Access and Management Act.

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

(iii) The state auditor or the subject of the audit may seek judicial review of a State Records Committee determination under Subsection (17)(d)(ii), as provided in

Section 63G-2-404.

(18) If the state auditor conducts an audit of an entity that the state auditor has previously audited and finds that the entity has not implemented a recommendation made by the state auditor in a previous audit, the state auditor shall notify the Legislative Management Committee through the Legislative Management Committee's audit subcommittee that the entity has not implemented that recommendation.

(19) The state auditor shall, with the advice and consent of the Senate, appoint the state privacy officer described in Section 67-3-13.

(20) Except as provided in Subsection (21), the state auditor shall report, or ensure that another government entity reports, on the financial, operational, and performance metrics for the state system of higher education and the state system of public education, including metrics in relation to students, programs, and schools within those systems.

(21)(a) Notwithstanding Subsection (20), the state auditor shall conduct regular audits of:

(i) the scholarship granting organization for the Carson Smith Opportunity Scholarship Program, created in Section 53E-7-402;

(ii) the State Board of Education for the Carson Smith Scholarship Program, created in Section 53F-4-302; and

(iii) the scholarship program manager for the Utah Fits All Scholarship Program, created in Section 53F-6-402, including an analysis of the cost effectiveness of the program, taking into consideration the amount of the scholarship and the amount of state and local funds dedicated on a per-student basis within the traditional public education system.

(b) Nothing in this subsection limits or impairs the authority of the State Board of Education to administer the programs described in Subsection (21)(a).

(22) The state auditor shall, based on the information posted by the Office of Legislative Research and General Counsel under Subsection 36-12-12.1(2), for each policy, track and post the following information on the state auditor's website:

(a) the information posted under Subsections 36-12-12.1(2)(a) through (e);

(b) an indication regarding whether the policy is timely adopted, adopted late, or not adopted;

(c) an indication regarding whether the policy complies with the requirements established by law for the policy; and

(d) a link to the policy.

(23)(a) A legislator may request that the state auditor conduct an inquiry to determine whether a government entity, government official, or government employee has complied with a legal obligation directly imposed, by statute, on the government entity, government official, or government employee.

(b) The state auditor may, upon receiving a request under Subsection (23)(a), conduct the inquiry requested.

(c) If the state auditor conducts the inquiry described in Subsection (23)(b), the state auditor shall post the results of the inquiry on the state auditor's website.

(d) The state auditor may limit the inquiry described in this Subsection (23) to a simple determination, without conducting an audit, regarding whether the obligation was fulfilled.

(24) The state auditor shall:

(a) ensure compliance with Title 63G, Chapter 31, Distinctions on the Basis of Sex, in accordance with Section 63G-31-401; and

(b) report to the Legislative Management Committee, upon request, regarding the state auditor's actions under this Subsection (24).

(25) The state auditor shall report compliance with Sections 67-27-107, 67-27-108, and 67-27-109 by:

(a) establishing a process to receive and audit each alleged violation; and

(b) reporting to the Legislative Management Committee, upon request, regarding the state auditor's findings and recommendations under this Subsection (25).

(26) The state auditor shall ensure compliance with Section 63G-1-704 regarding the display of flags in or on government property.

Section 3. **Effective Date.**

This bill takes effect on May 7, 2025.