

FISCAL ACCOUNTABILITY STANDARDS

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: David Litvack

This act modifies the Budgetary Procedures Act and the Information Technology Act by requiring the Governor's Office of Planning and Budget to submit a tax expenditure report in every odd-numbered year beginning in 2003, in conjunction with the state budget. The act defines the contents of the tax expenditure report and makes technical corrections.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

63-38-2, as last amended by Chapter 376, Laws of Utah 2001

63D-1-204, as last amended by Chapter 21, Laws of Utah 1999

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

Section 1. Section **63-38-2** is amended to read:

63-38-2. Governor to submit budget to Legislature -- Governor's Office of Planning and Budget to submit tax expenditure report to Legislature -- Contents -- Preparation -- Appropriations based on current tax laws and not to exceed estimated revenues.

(1) As used in this section:

(a) "Tax expenditure" means any state law that exempts, in whole or in part, certain persons, entities, income, industries, goods, services, or property from the impact of established taxes.

(b) (i) "Tax expenditure" includes each deduction, tax subtraction, tax exemption, tax deferral, tax credit, and authorized retention of fees or taxes for the taxes listed in Subsection (5)(a).

(ii) "Tax expenditure" does not include an amount described in Subsection (1)(b)(i) that is authorized under federal law.

~~(+)~~ (2) (a) The governor shall, within three days after the convening of the Legislature



28 in the annual general session, ~~[submit a budget for the ensuing fiscal year by delivering it]~~ deliver
29 to the ~~[presiding officer of each house of the Legislature together with]~~ president of the Senate and
30 the speaker of the House of Representatives:

31 (i) a budget report; and

32 (ii) a schedule for all of the proposed appropriations of the budget, clearly itemized and
33 classified.

34 ~~[(b) The budget message shall include a projection of estimated revenues and expenditures~~
35 ~~for the next fiscal year.]~~

36 ~~[(2)] (b)~~ At least 34 days before the submission of [any] the budget report and
37 appropriations schedule, the governor shall deliver [a] confidential draft [copy of his proposed
38 budget recommendations] copies of the budget report and appropriations schedule to the Office
39 of the Legislative Fiscal Analyst.

40 (3) (a) In every odd-numbered year beginning in 2003, the Governor's Office of Planning
41 and Budget shall, within three days after the convening of the Legislature in the annual general
42 session, prepare and deliver a tax expenditure report to the president of the Senate and the speaker
43 of the House of Representatives.

44 (b) For the purpose of preparing and reporting the tax expenditure report referred to in
45 Subsection (3)(a), the Governor's Office of Planning and Budget may request, and shall receive
46 pertinent information from the proper state agencies.

47 (c) At least 34 days before the submission of the tax expenditure report, the Governor's
48 Office of Planning and Budget shall deliver a confidential draft copy of the tax expenditure report
49 to the Office of the Legislative Fiscal Analyst.

50 ~~[(3)] (4)~~ (a) The budget report referred to in Subsection (2)(a)(i) shall contain:

51 (i) a complete plan of proposed expenditures and estimated revenues for the next fiscal
52 year based upon the current fiscal year state tax laws and rates[-];

53 ~~[(b) The budget may be accompanied by a separate document showing proposed~~
54 ~~expenditures and estimated revenues based on changes in state tax laws or rates.]~~

55 ~~[(4)] (ii)~~ [The budget shall be accompanied by] a statement showing:

56 ~~[(a)] (A)~~ (A) the revenues and expenditures for the last fiscal year;

57 ~~[(b)] (B)~~ (B) the current assets, liabilities, and reserves, surplus or deficit, and the debts and
58 funds of the state;

59 ~~[(e)]~~ (C) an estimate of the state's financial condition as of the beginning and the end of
60 the period covered by the budget;

61 ~~[(d)]~~ (D) a complete analysis of lease with an option to purchase arrangements entered into
62 by state agencies;

63 ~~[(e)]~~ (E) the recommendations for each state agency for new full-time employees for the
64 next fiscal year; ~~[which recommendation should be provided also to the State Building Board~~
65 ~~under Subsection 63A-5-103(2);]~~

66 ~~[(f)]~~ (F) any explanation the governor may desire to make as to the important features of
67 the budget and any suggestion as to methods for the reduction of expenditures or increase of the
68 state's revenue; and

69 ~~[(g)]~~ (G) the information detailing certain regulatory fee increases required by Section
70 63-38-3.2[-];

71 ~~[(5)]~~ (iii) ~~[The budget shall include]~~ an itemized estimate of the appropriations for:

72 ~~[(a)]~~ (A) the Legislative Department as certified to the governor by the president of the
73 Senate and the speaker of the House;

74 ~~[(b)]~~ (B) the Executive Department;

75 ~~[(c)]~~ (C) the Judicial Department as certified to the governor by the state court
76 administrator;

77 ~~[(d)]~~ (D) payment and discharge of the principal and interest of the indebtedness of the
78 state of Utah;

79 ~~[(e)]~~ (E) the salaries payable by the state under the Utah Constitution or under law for the
80 lease agreements planned for the next fiscal year;

81 ~~[(f)]~~ (F) other purposes that are set forth in the Utah Constitution or under law; and

82 ~~[(g)]~~ (G) all other appropriations[-]; and

83 ~~[(6) Deficits]~~ (iv) any deficits or anticipated deficits [shall be included in the budget].

84 (b) The budget may be accompanied by a separate document showing proposed
85 expenditures and estimated revenues based on changes in state tax laws or rates.

86 (c) The governor shall deliver a copy of the recommendations for each state agency for
87 new full-time employees for the next fiscal year to the State Building Board.

88 (5) The tax expenditure report referred to in Subsection (3)(b) shall:

89 (a) list each tax expenditure for:

90 (i) corporate franchise and income, authorized by Title 59, Chapter 7, Corporate Franchise
91 and Income Taxes;

92 (ii) individual income, authorized by Title 59, Chapter 10, Individual Income Tax Act;

93 (iii) sales and use, authorized by Title 59, Chapter 12, Sales and Use Tax Act;

94 (iv) used oil, authorized by Section 19-6-715; and

95 (v) waste tire recycling, authorized by Section 19-6-808;

96 (b) identify the statutory authority for each tax expenditure;

97 (c) describe the purpose of each tax expenditure;

98 (d) identify the types of persons and entities benefitted by each tax expenditure;

99 (e) estimate the amount of revenue loss caused by each tax expenditure for the coming
100 fiscal year;

101 (f) list either the actual amount of revenue loss in the preceding fiscal year for each tax
102 expenditure or an estimate of the revenue loss;

103 (g) determine whether or not each tax expenditure is the most fiscally effective means of
104 achieving each purpose of the tax expenditure;

105 (h) determine whether or not each tax expenditure has successfully achieved the purpose
106 for which the tax expenditure was enacted and currently serves; and

107 (i) categorize each tax expenditure according to the programs or functions that the tax
108 expenditure supports.

109 ~~[(7)]~~ (6) (a) (i) For the purpose of preparing and reporting the budget, the governor shall
110 require itemized estimates of revenues and expenditures from the proper state officials[;];

111 (A) including public and higher education officials[;];

112 (B) all heads of executive [~~and~~] departments, administrative departments [~~and~~], state
113 institutions, bureaus, boards, commissions, and agencies expending or supervising the expenditure
114 of the state moneys[;]; and

115 (C) all institutions applying for state moneys and appropriations[; ~~itemized estimates of~~
116 revenues and expenditures].

117 (ii) The governor may:

118 (A) also require other information;

119 (B) establish guidelines and formats for reporting the revenues and expenditures;

120 (C) establish deadlines for reporting the information; and

121 (D) include a requirement for program productivity and performance measures, where
122 appropriate, with emphasis on outcome indicators.

123 (b) The entities required by ~~[this]~~ Subsection ~~[(7)]~~ (6)(a)(i) to submit itemized estimates
124 of revenues and expenditures to the governor, shall also report to the Utah Information Technology
125 Commission created in Title 63D, Chapter 1, before October 30 of each year. The report to the
126 Information Technology Commission shall include the proposed information technology
127 expenditures and objectives, the proposed appropriation requests and other sources of revenue
128 necessary to fund the proposed expenditures and an analysis of:

129 ~~[(A)]~~ (i) the entity's need for appropriations for information technology;

130 ~~[(B)]~~ (ii) how the entity's development of information technology coordinates with other
131 state or local government entities;

132 ~~[(C)]~~ (iii) any performance measures used by the entity for implementing information
133 technology goals; and

134 ~~[(D)]~~ (iv) any efforts to develop public/private partnerships to accomplish information
135 technology goals.

136 ~~[(ii) (A) The governor may also require other information under these guidelines and at~~
137 ~~times as the governor may direct.]~~

138 ~~[(B) These guidelines may include a requirement for program productivity and~~
139 ~~performance measures, where appropriate, with emphasis on outcome indicators.]~~

140 ~~[(b)]~~ (c) (i) The estimate for the Legislative Department as certified by the presiding
141 officers of both houses shall be included in the budget without revision by the governor.

142 (ii) Before preparing the estimates for the Legislative Department, the Legislature shall
143 report to the Information Technology Commission the proposed information technology
144 expenditures and objectives, the proposed appropriation requests and other sources of revenue
145 necessary to fund the proposed expenditures, including an analysis of:

146 ~~[(i)]~~ (A) the Legislature's implementation of information technology goals;

147 ~~[(ii)]~~ (B) any coordination of information technology with other departments of state and
148 local government;

149 ~~[(iii)]~~ (C) any efforts to develop public/private partnerships to accomplish information
150 technology goals; and

151 ~~[(iv)]~~ (D) any performance measures used by the entity for implementing information

152 technology goals.

153 ~~[(e)]~~ (d) (i) The estimate for the Judicial Department, as certified by the state court
154 administrator, shall also be included in the budget without revision, but the governor may make
155 separate recommendations on it.

156 (ii) Before preparing the estimates for the Judicial Department, the state court
157 administrator shall report to the Information Technology Commission the proposed information
158 technology expenditures and objectives, the proposed appropriation requests and other sources of
159 revenue necessary to fund the proposed expenditures, including an analysis of:

160 ~~[(i)]~~ (A) the Judicial Department's information technology goals;

161 ~~[(ii)]~~ (B) coordination of information technology statewide between all courts;

162 ~~[(iii)]~~ (C) any efforts to develop public/private partnerships to accomplish information
163 technology goals; and

164 ~~[(iv)]~~ (D) any performance measures used by the entity for implementing information
165 technology goals.

166 ~~[(e)]~~ (e) Before preparing the estimates for the State Office of Education, the state
167 superintendent shall report to the Information Technology Commission the proposed information
168 technology expenditures and objectives, the proposed appropriation requests and other sources of
169 revenue necessary to fund the proposed expenditures, including an analysis of:

170 (i) the Office of Education's information technology goals;

171 (ii) coordination of information technology statewide between all public schools;

172 (iii) any efforts to develop public/private partnerships to accomplish information
173 technology goals; and

174 (iv) any performance measures used by the Office of Education for implementing
175 information technology goals.

176 ~~[(e)]~~ (f) Before preparing the estimates for the state system of higher education, the
177 commissioner shall report to the Information Technology Commission the proposed information
178 technology expenditures and objectives, the proposed appropriation requests and other sources of
179 revenue necessary to fund the proposed expenditures, including an analysis of:

180 (i) higher education's information technology goals;

181 (ii) coordination of information technology statewide within the state system of higher
182 education;

183 (iii) any efforts to develop public/private partnerships to accomplish information
184 technology goals; and

185 (iv) any performance measures used by the state system of higher education for
186 implementing information technology goals.

187 ~~[(f)]~~ (g) The governor may require the attendance at budget meetings of representatives
188 of public and higher education, state departments and institutions, and other institutions or
189 individuals applying for state appropriations.

190 ~~[(g)]~~ (h) The governor may revise all estimates, except those:

191 (i) relating to the Legislative Department~~[-];~~ and the Judicial Department~~[-and those];~~

192 (ii) providing for the payment of principal and interest to the state debt; and

193 (iii) providing for the salaries and expenditures specified by the Utah Constitution or
194 ~~[under]~~ the laws of the state.

195 ~~[(8)]~~ (7) The total appropriations requested for expenditures authorized by the budget may
196 not exceed the estimated revenues from taxes, fees, and all other sources for the next ensuing fiscal
197 year.

198 ~~[(9)]~~ (8) If any item of the budget as enacted is held invalid upon any ground, the invalidity
199 does not affect the budget itself or any other item in it.

200 ~~[(10)]~~ (9) (a) In submitting the budgets for the Departments of Health and Human Services
201 and the Office of the Attorney General, the governor shall consider a separate recommendation in
202 his budget for funds to be contracted to:

203 (i) local mental health authorities under Section 17A-3-606;

204 (ii) local substance abuse authorities under Section 62A-8-110.5;

205 (iii) area agencies under Section 62A-3-104.2;

206 (iv) programs administered directly by and for operation of the Divisions of Mental Health,
207 Substance Abuse, and Aging and Adult Services;

208 (v) local health departments under Title 26A, Chapter 1, Local Health Departments; and

209 (vi) counties for the operation of Children's Justice Centers under Section 67-5b-102.

210 (b) In his budget recommendations under Subsections ~~[(10)]~~ (9)(a)(i), (ii), and (iii), the
211 governor shall consider an amount sufficient to grant local health departments, local mental health
212 authorities, local substance abuse authorities, and area agencies the same percentage increase for
213 wages and benefits that he includes in his budget for persons employed by the state.

214 (c) If the governor does not include in his budget an amount sufficient to grant the increase
215 described in Subsection ~~[(10)]~~ (9)(b), he shall include a message to the Legislature regarding his
216 reason for not including that amount.

217 ~~[(11)]~~ (10) (a) In submitting the budget for the Division of Services for People with
218 Disabilities, the Division of Child and Family Services, and the Division of Youth Corrections
219 within the Department of Human Services, the governor shall consider an amount sufficient to
220 grant employees of corporations that provide direct services under contract with those divisions,
221 the same percentage increase for cost-of-living that he includes in his budget for persons employed
222 by the state.

223 (b) If the governor does not include in his budget an amount sufficient to grant the increase
224 described in Subsection ~~[(11)]~~ (10)(a), he shall include a message to the Legislature regarding his
225 reason for not including that amount.

226 ~~[(12)]~~ (11) (a) The Families, Agencies, and Communities Together Council may propose
227 to the governor under Subsection 63-75-4(4)(e) a budget recommendation for collaborative service
228 delivery systems operated under Section 63-75-6.5.

229 (b) The Legislature may, through a specific program schedule, designate funds
230 appropriated for collaborative service delivery systems operated under Section 63-75-6.5.

231 ~~[(13)]~~ (12) The governor shall include in his budget the state's portion of the budget for
232 the Utah Communications Agency Network established in Title 63C, Chapter 7, Utah
233 Communications Agency Network Act.

234 Section 2. Section **63D-1-204** is amended to read:

235 **63D-1-204. Purpose -- Duties -- Quorum.**

236 (1) The commission shall:

237 (a) study Utah's present and future information technology needs;

238 (b) make recommendations regarding the coordination and governance of the information
239 technology needs for the Executive, Legislative, and Judicial Departments;

240 (c) solicit and consider recommendations made by the governor, Judiciary, Legislature,
241 and the public regarding information technology;

242 (d) consider the scope of the Public Service Commission's authority to regulate
243 information technology;

244 (e) consider issues of economic development with regard to information technology;

- 245 (f) (i) receive reports concerning expenditures for information technology and
246 appropriation requests from:
- 247 (A) the Executive Department as provided in [~~Subsections 63-38-2(7)(a)(i)] Subsection
248 63-38-2(6)(b) and Section 63D-1-301.5; and~~
- 249 (B) the Judicial and Legislative Departments; and
- 250 (ii) make recommendations to Executive Appropriations and the appropriate
251 appropriations subcommittees of the Legislature;
- 252 (g) review, analyze, and study any issue concerning or related to information technology
253 or practice that is of interest to the commission;
- 254 (h) submit to the Legislature before the annual general session its reports and
255 recommendations for information technology projects or legislation; and
- 256 (i) if needed, prepare legislation concerning information technology for submission to the
257 Legislature in its annual general session.
- 258 (2) Eleven members shall be a quorum for the conduct of business.
- 259 (3) The commission is authorized to prepare, publish, and distribute reports of its studies,
260 recommendations, and statements.

Legislative Review Note
as of 1-31-02 8:23 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel