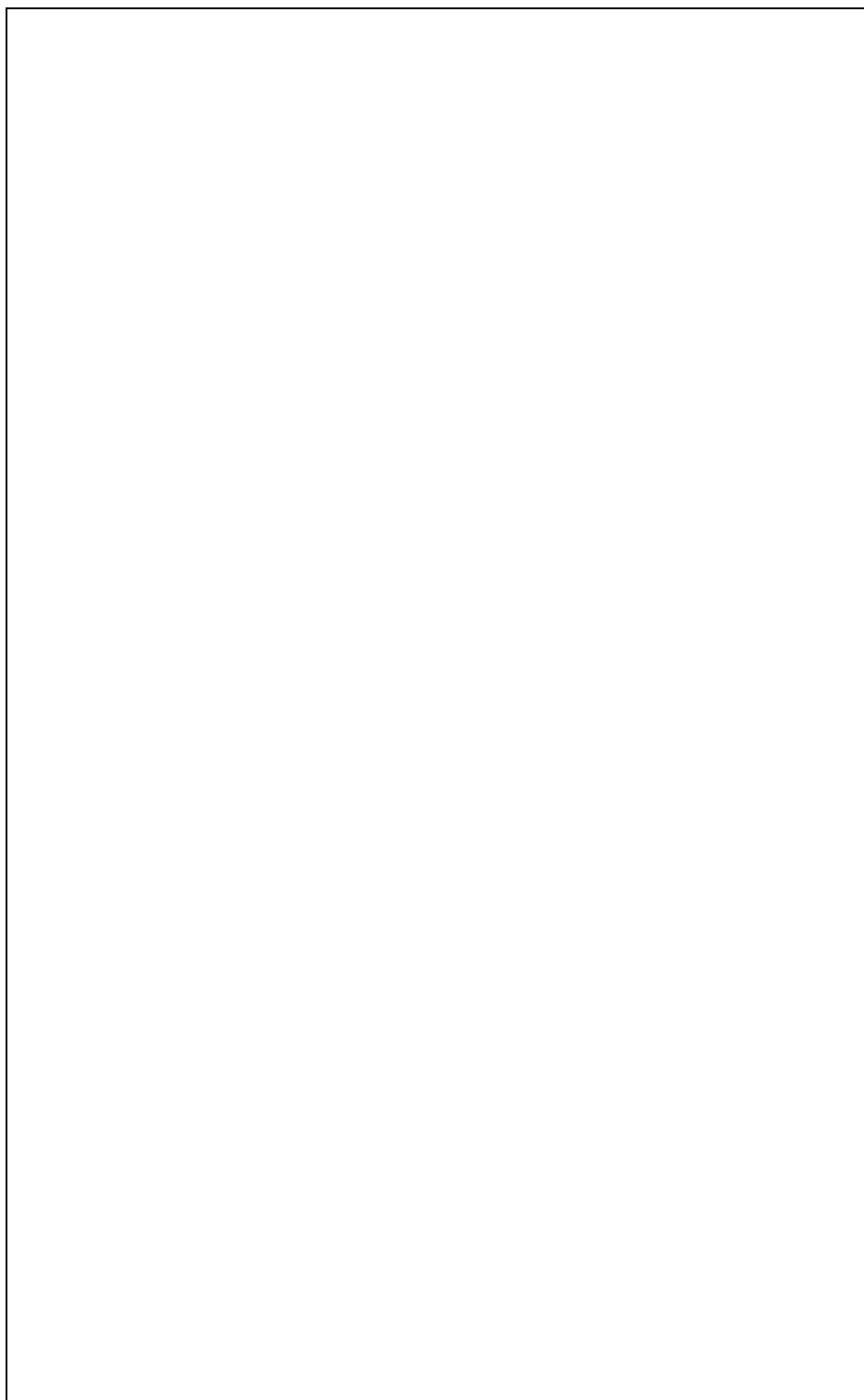




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# FISCAL NOTE HANDBOOK



# Introduction

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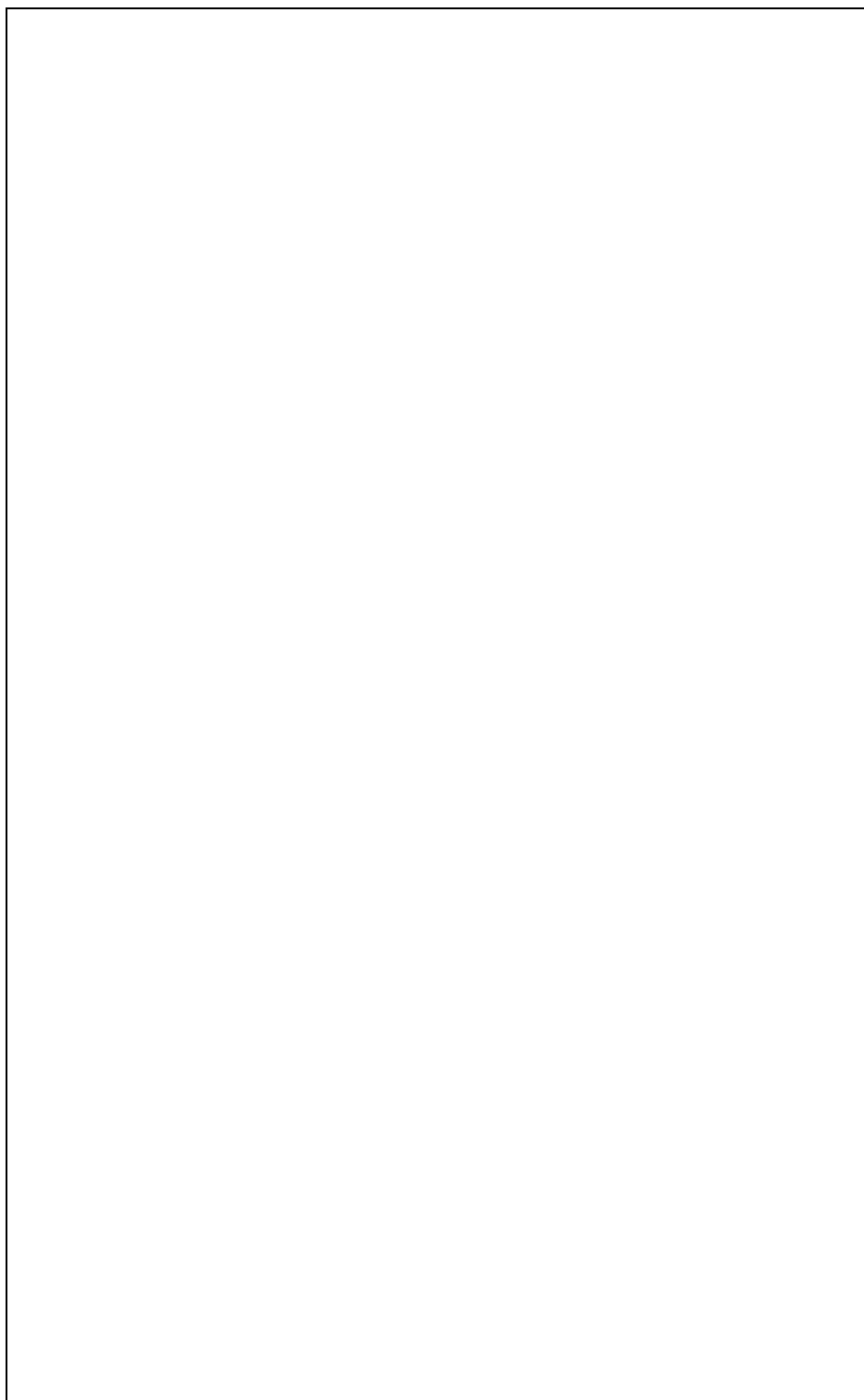
The purpose of this handbook is to outline the requirements and methodologies of the fiscal note process for the Utah State Legislature. Fiscal notes serve as a tool to help legislators understand the fiscal impact of a bill and are not intended to influence passage or defeat of a bill. The Legislative Fiscal Analyst and staff are responsible for providing fiscal notes on all proposed legislation. Each analyst is assigned specific departments and agencies that are grouped within policy areas for budget analysis and fiscal note preparation. Analysts use their expertise and specific program knowledge, along with predictive insight and data provided by state agencies, local governments and others affected by legislation to prepare a fiscal note.

The intent of this handbook is to provide legislators, departments and agencies, and the general public with a better understanding of the fiscal note process. For specific questions regarding fiscal notes or the fiscal note process, please call our office at 801-538-1034.

The Fiscal Note Handbook is available on the Utah State Legislature website at: [www.le.utah.gov/lfa](http://www.le.utah.gov/lfa). Copies of the printed version are available at:

Office of the Legislative Fiscal Analyst  
W310 Capitol Complex  
Salt Lake City, Utah, 84114

January 2021

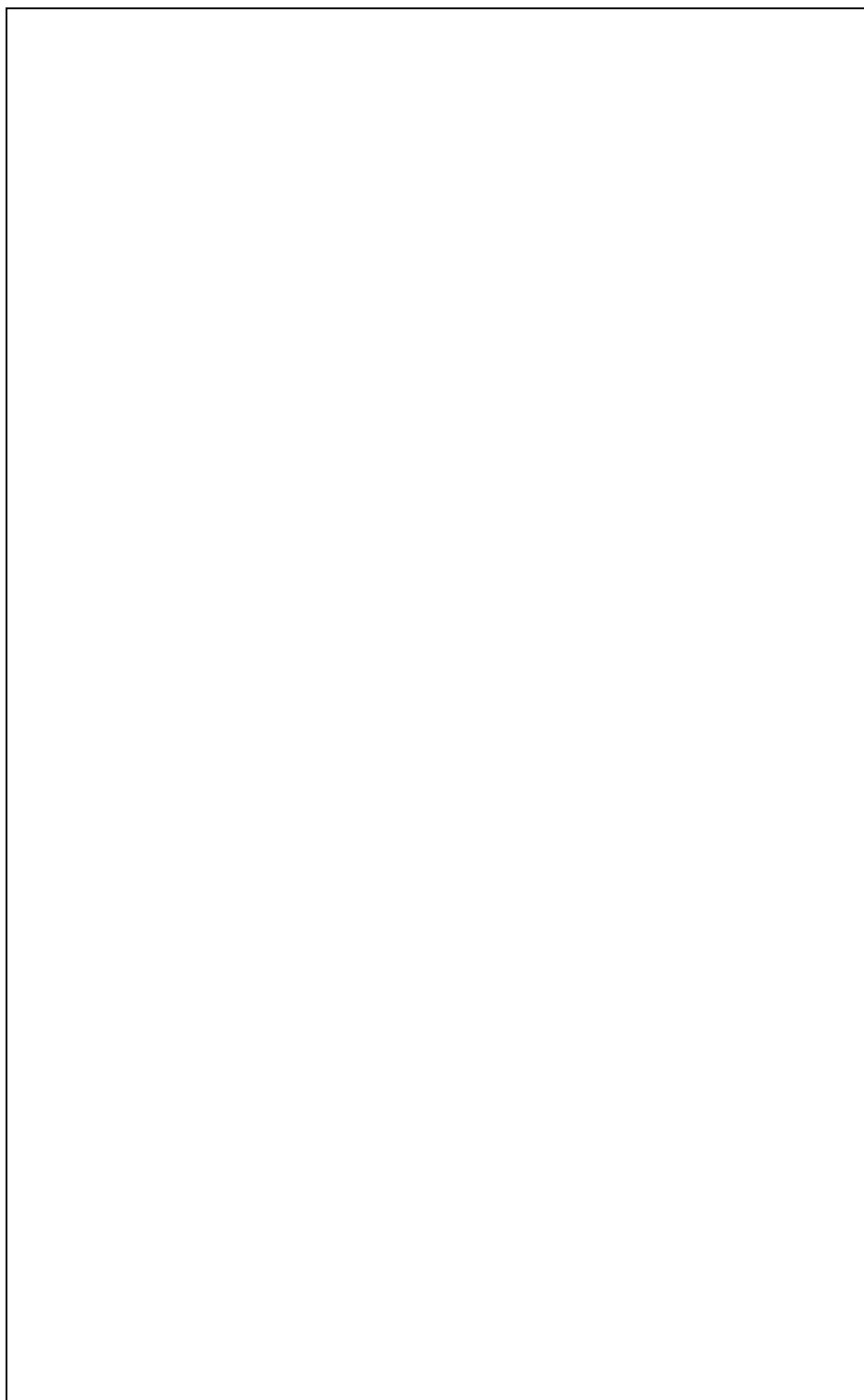


Office of the Legislative Fiscal Analyst

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## **Mission Statement**

We affect good government through  
objective, accurate, relevant  
budget advice.



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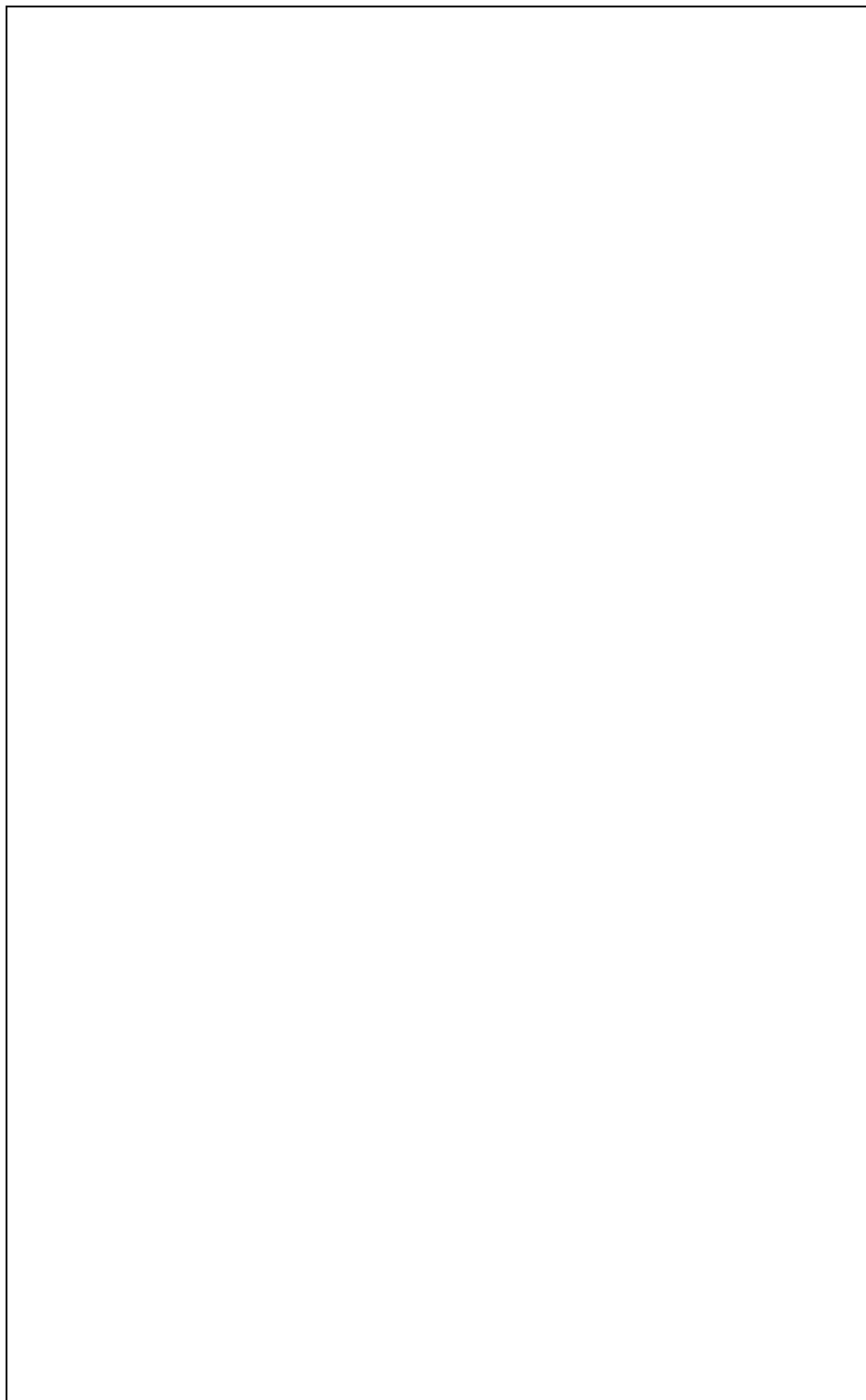
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# *Definitions and Uses*

## *Utah Code*

Utah's laws are called the Utah Code and are included in a five-volume set of books with over 1,000 pages, 115 titles and more than 23,300 sections. To efficiently assign bills and receive input for fiscal notes, the Office of the Legislative Fiscal Analyst (LFA) created a set of assignment tables that links at least one financial analyst and one agency to every section.

After each legislative session, the Office of Legislative Research and General Council (LRGC) adds to the Utah Code sections created during the session. Then LFA's assignment tables are updated for recodification, code amendments and staff assignments, so that the financial analyst and agencies are correctly assigned to each code section.

## *Legislative Bills*

LRGC opens a bill file when a legislator submits a "Request for Legislation". Depending on the timing, the bill is either given a file number and a version number, or a regular bill number. After the bill is drafted, but before it becomes public, it is sent to the sponsor for approval. Once approved, LRGc makes the bill public and notifies the assigned state and local agencies, and the appropriate financial analyst, or analysts, of the bill.

## *Pre-Session (Early) Bills*

Before the legislative session starts, a sponsor may request an early fiscal note. The bill is given an “early bill” file and version number. The financial analyst produces a fiscal note and sends it to the sponsor for approval. Later, when the bill is given a Senate or House number, the original fiscal note will be valid only if the sponsor has not made changes to the bill. If any changes are made to the bill, a new fiscal note will be produced.

Generally, near the end of November, LRGC stops processing early bills with file numbers and begins issuing regular House and Senate numbered bills. All sponsor approved bills will usually have a House or Senate number by mid-December.

## *Protected Bills - Public Access to Records*

Some pre-session bills include a confidential note and carry a legal warning that the information must be kept private. The “protected bill” is sent to the appropriate state agency and must only be viewed by those who have relevant information to produce a fiscal note. The bill must not be discussed within the agency and must not be sent to individuals outside the agency.

The Government Records Access and Management Act (GRAMA) protects “records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas” ([UCA 63G-2-305\(30\)](#)). Questions regarding records access should be directed to the LFA’s records officer:

Steve Allred, Deputy Director  
[smallred@le.utah.gov](mailto:smallred@le.utah.gov)  
801-538-1034

## *Substitute Bills*

When LRGC makes changes to a bill, a substitute bill may be produced. If the original bill is numbered SB0001, the substitute bill would be numbered SB0001 S01. LRGC may release multiple substitutes. Each substitute bill requires its own fiscal note. Going back to 1985, the most substitutes to any one bill is 19.

Substitute bills are printed on colored paper.

|                  | <b><u>House</u></b> | <b><u>Senate</u></b> |
|------------------|---------------------|----------------------|
| 1 <sup>ST</sup>  | Buff                | Green                |
| 2 <sup>nd</sup>  | Gray                | Salmon               |
| 3 <sup>rd</sup>  | Cherry              | Ivory                |
| 4 <sup>th</sup>  | Green               | Pumpkin              |
| 5 <sup>th</sup>  | Salmon              | Gray                 |
| 6 <sup>th</sup>  | Ivory               | Cherry               |
| 7 <sup>th</sup>  | Lime                | Buff                 |
| 8 <sup>th</sup>  | Teal                | Purple               |
| 9 <sup>th</sup>  | Pumpkin             | Lime                 |
| 10 <sup>th</sup> | Tan                 | Pink                 |

## *Fiscal Analyst–Requirements* [UCA 36-12-13](#)

The Office of the Legislative Fiscal Analyst is required by statute:

- (2) (c) to prepare on all proposed bills fiscal estimates that reflect:
  - (i) potential state government revenue impacts;
  - (ii) anticipated state government expenditure changes;
  - (iii) anticipated expenditure changes for county municipal, local district, or special service district governments; and
  - (iv) anticipated direct expenditure by Utah residents and businesses, including the unit cost, number of units, and total cost to all impacted residents and businesses;

## *Fiscal Notes*

A fiscal note is the anticipated cost and revenue estimate of proposed legislation. Fiscal notes include objective, direct and measurable cost and revenue impacts a bill may have on state government, local governments, and the cost to the overall impacted Utah resident or business population.

Fiscal notes serve as a tool to help legislators understand the fiscal impact of a bill and are not intended to influence the passage or defeat of a bill. Fiscal notes provide additional information legislators may use to make decisions. They also help the Legislature balance the Utah State budget.

## *Fiscal Note Example*

Fiscal notes have information divided into seven text or table boxes plus some notes at the bottom.

1. Bill number, session, short title, and sponsor
2. Net state funds (General & Education funds). Fiscal notes with a net state fund impact of \$10,000 or more are treated per rule [\(JR4-4-101\)](#):
  - (1)(a) The house shall refer any Senate Bill with a fiscal note of \$10, 000 or more to the House Rules Committee before giving that bill a third reading.
  - (b) The Senate shall table on third reading each House bill with a fiscal note of \$10,000 or more.
- (2)(a) Before adjourning on the 43rd day of the annual general session, each legislator shall prioritize fiscal note bills and identify other projects or programs for new or one-time funding per the process established by leadership.
  - (b) Before adjourning on the 44th day of the annual general session, the Legislature shall either pass or defeat each bill with a fiscal note of \$10,000 or more except constitutional amendment resolutions.
3. Total impact to state government including an explanation of what's causing the revenue or cost impact, which state agency is impacted and a description of what the state of Utah is buying
4. A table showing estimated revenues and expenditures
5. Local governments impact
6. Individual and business impact
7. Regulatory impact
8. Performance note determination including the agency assigned

In fine print below the fiscal note is the analyst's name, the attorney's initials, and an explanation of a fiscal note's limits.

**Fiscal Note****S.B. 72**

2018 General Session  
 Business Income Tax Modifications - As Amended  
 by Harper, W.



1.

2.

**General, Education, and Uniform School Funds**

JR4-5-101

|                           | Ongoing | One-time | Total   |
|---------------------------|---------|----------|---------|
| Net GF/EF/USF (rev.-exp.) | \$1,800 | \$1,000  | \$2,800 |

3.

**State Government**

UCA 36-12-13(2)(b)

Presuming 10% of currently classified manufacturing firms shift to being classified as non-manufacturing firms, enactment of this bill may increase revenue to the Education Fund by \$2,800 in FY 2019 and \$1,800 in FY 2020. Should 100% of manufacturing firms be classified as non-manufacturing firms, the bill reduces revenue to the Education Fund by up to \$18 million in FY 2020.

4.

| Revenues                 | FY 2018 | FY 2019 | FY 2020 |
|--------------------------|---------|---------|---------|
| Education Fund           | \$0     | \$1,800 | \$1,800 |
| Education Fund, One-Time | \$0     | \$1,000 | \$0     |
| Total Revenues           | \$0     | \$2,800 | \$1,800 |

Enactment of this legislation likely will not materially impact state expenditures.

| Expenditures         | FY 2018    | FY 2019        | FY 2020        |
|----------------------|------------|----------------|----------------|
| Total Expenditures   | \$0        | \$0            | \$0            |
| <b>Net All Funds</b> | <b>\$0</b> | <b>\$2,800</b> | <b>\$1,800</b> |

5.

**Local Government**

UCA 36-12-13(2)(c)

Enactment of this legislation likely will not result in direct, measurable costs for local governments.

6.

**Individuals & Businesses**

UCA 36-12-13(2)(d)

Presuming 10% of currently classified manufacturing firms shift to being classified as non-manufacturing firms, enactment of this bill may increase the overall tax burden of corporate taxpayers by \$2,800 in FY 2019 and \$1,800 in FY 2020. Within this overall figure, some corporations may see an increase in tax liability, while other corporations may see a decrease in tax liability.

7.

**Regulatory Impact**

Enactment of this legislation likely will not change the regulatory burden for Utah residents or businesses.

8.

**Performance Note**

JR4-2-404

No performance note required for this bill

**Notes on Notes**

Fiscal notes estimate the direct costs or revenues of enacting a bill. The Legislature uses them to balance the budget. They do not measure a bill's benefits or non-fiscal impacts like opportunity costs, wait times, or inconvenience. A fiscal note is not an appropriation. The Legislature decides appropriations separately.

2018/02/09 16:02, Lead Analyst: Thomas E. Young Attorney: AVA

S.B. 72



## *Amended Notes*

When changes are made to a bill, but such changes don't result in a substitute bill, and the change is passed on the floor or in a committee meeting, an amendment to the bill is produced and the assigned financial analyst will be notified. The assigned analyst reviews the amendment and if the change affects the fiscal note, the analyst will produce a new "amended" fiscal note for that bill.

## *Revised Notes*

If the financial analyst gets additional information that changes the fiscal note of a bill after the note has been made public, the analyst will change the fiscal impact statement with a revised fiscal note.

## *Performance Notes - [JR4-2-404](#)*

A performance note is a statement of performance measures and information that may be required to be included to legislation that creates or expands programs as per the requirements of JR4-2-404:

- (6) A performance note shall contain the following information:
  - (a) the name of the governmental entity submitting the performance note, as applicable;
  - (b) the names and titles of the individuals who prepared the performance note; and
  - (c) a statement of performance measure that:
    - (i) explains the purpose and duties of the new program or agency;
    - (ii) lists the services that will be provided by the new program or agency;

- (iii) lists the goals and proposed impacts that new program or agency intends to achieve within one, two, and three years;
  - (iv) lists the resources and steps required to achieve the goals and proposed impacts;
  - (v) lists the benchmarks that the new program or agency will monitor to measure progress toward the goals and outcome;
  - (vi) lists the performance measures that will be used to evaluate progress toward the goals and proposed impacts; and
  - (vii) states how information on progress and performance measures will be gathered in a reliable, objective fashion.
- (7) The performance note is not an official part of the legislation.

Legislative rule requires a performance note when a significant appropriation is required to:

- Create a new program or
- Provide new services or
- Increase existing service or benefit levels or
- Serve a larger population

A performance note will:

- Explain the new program's purpose and duties
- List the agency's new services
- List the one, two, and three year, goals and impacts
- Explain the plan and resources to achieve the goals and impacts
- List the benchmarks that the new program or agency will monitor to measure progress toward the goals and outcomes
- List the performance measures that will be used to evaluate, and

- Explain how performance measures data will be gathered to be reliable and objective

The Performance Note process is as follows:

1. The analyst reviews the legislation (upon receipt, day one) against the criteria listed above that should trigger a performance note.
2. The agency or agencies submit the performance note(s) to the LFA (within three business days).
3. The sponsor may accept or reject the agency or agencies' note(s).
4. The analyst makes the performance note publicly available; but if the sponsor rejects it, the analyst will add notation that the sponsor rejected it and the sponsor may submit a separate performance note.
5. Legislators may use the information when debating the bill.
6. If the legislation passes, the Legislative Auditor General conducts a two-year review process of the new program with a performance note ([UCA 36-13-15](#)).

Legislative rule requires that every bill have a performance note determination and that such determination be indicated on the fiscal note.

## *Resolutions* - [JR4-1-101](#)

A Resolution is a written proposal and includes constitutional joint resolutions, other joint resolutions, concurrent resolutions, House resolutions, and Senate resolutions. Resolutions are legislation.

### ***Constitutional Joint Resolution:***

A joint resolution proposes to amend, enact, or repeal portions of the Utah Constitution which, to be approved for submission to the voters, must be passed by a two-thirds vote of both houses of the Legislature.

***Concurrent Resolution:***

A written proposal of the Legislature and governor, which, to be approved, must be passed by both houses of the Legislature, and concurred to by the governor.

***Joint Resolution:***

A written proposal of the Legislature which, to be approved, must be passed by both houses of the Legislature.

***Senate Resolution:***

A written proposal of the Senate which, to be approved, must be passed by the Senate.

***House Resolution:***

A written proposal of the House of Representatives which, to be approved, must be passed by the House of Representatives.

***Repealers***

A bill will sometimes “repeal”, which is to remove or delete, a section or sections of code.

Example:

“This bill repeals Section [20A-11-1101](#), Illegal to publish political materials in certain publications under certain conditions...”

The analyst will read about the material being repealed. There is not enough information in the bill alone to determine any fiscal impact resulting from the material being repealed.

## *Health Insurance Mandates on Education*

[UCA 31A-22-605.5](#) requires the state to apply a health insurance mandate enacted after January 1, 2012, to the health coverage offered to state employees, public school districts, charter schools, and institutions of higher education. To recognize the cost, the LFA's fiscal note system attempts to capture all entities affected by such a change.

In cases when a total impact is estimated by specific areas, such as the number of individuals affected and the average cost for each individual within higher and public education, the appropriated amount from the General/Education Funds to public and higher education may be estimated using the "Higher Education" and "Public Education" tabs within the "Health Insurance mandates.xlsx" file found on the LFA Office staff shared drive.

After the analyst enters the total impact, the spreadsheet auto-calculates the amount for appropriation purposes. In cases when a total impact statewide is estimated, but the impact by specific area is unknown, the impact for public and higher education may be estimated using the "Total impact" tab on the same file mentioned above.

## Example: Health Insurance Mandates on Education

| Enter the estimated total impact Statewide | 2020 Est. or 2017 Actual  |        | 2020 Est. or 2017 Actual |             |             |                |          |               |                     |                                |          |  |
|--|---------------------------|--------|--------------------------|-------------|-------------|----------------|----------|---------------|---------------------|--------------------------------|----------|--|
|  | Employment recent quarter | (most) | % of Total               | State Funds | DC/I, local | Other/ Federal | Total    | GI/EF Approp. | DC/I, local Approp. | Other/ Federal Sources Approp. | Total    |  |
| Public education employment                | 73,023                    |        | 4.8%                     | \$25,956    | \$18,501    | \$3,788        | \$48,244 | \$26,000      | \$18,500            | \$3,800                        | \$48,300 |  |
| Higher education employment                | 49,382                    |        | 3.3%                     | \$18,061    | \$14,101    | \$463          | \$32,625 | \$18,100      | \$14,100            | \$500                          | \$32,700 |  |
| All other entities                         | 1,391,207                 |        | 91.9%                    | N/A         | N/A         | N/A            | N/A      | N/A           | N/A                 | N/A                            |          |  |
| <b>Total Expenditures</b>                  | 1,513,612                 |        |                          | 44,017      | 32,602      | 4,250          | 80,869   | \$44,100      | \$32,600            | \$4,300                        |          |  |

Source: DWS's for employment

## *State Agencies, Local Governments, and Businesses*

State agencies, local governments, and businesses play an important role by providing estimated fiscal impacts of implementing legislative proposals that will affect them. They must identify workload drivers and determine the most reasonable cost for implementation scenarios. They are given one business day to respond to the analyst with their input.

## *One-time and Ongoing Funding*

The office uses one-time and ongoing designations which can be applied to any fund in any appropriation. The Legislature appropriates to the current and coming fiscal year's budgets. Fiscal note tables show those and the third fiscal year, but the third year is for information, not appropriation. The third fiscal year (last column) will look like the funds naturally continue if they are designated as ongoing.

For example, if a bill will have an ongoing cost of \$120,000 but the program only costs \$80,000 in the coming fiscal year the table would look like this:

|                         | FY 2021 | FY 2022    | FY 2023   |
|-------------------------|---------|------------|-----------|
| General Fund (ongoing)  | \$0     | \$120,000  | \$120,000 |
| General Fund (one-time) | \$0     | (\$40,000) |           |
|                         | \$0     | \$80,000   | \$120,000 |

The analyst will enter \$120,000 and -\$40,000 in the coming fiscal year and the software will write the correct numbers in the following year.

## *Regulatory Impacts*

A proposed bill may impact the regulatory burden of Utah residents or businesses. A regulatory burden can refer to specific processes, budgets, and manpower an organization initiates to meet government regulations.

In the 2017 General Session, the Legislature passed H.B. 272 “Regulatory Impact Amendments,” which requires the Legislative Fiscal Analyst to indicate whether the impact increases or decreases the regulatory burden, and whether the change in burden is high, medium, or low.

These requirements are now part of the Fiscal Note analysis under Business and Individual Impact and are now included for each bill beginning with the 2018 General Session.

Potential changes triggered by a bill could include the following:

- Provide new or additional information/Eliminate requirement for information;
- Pay a new required fee/Elimination of an existing fee;
- Take new required training/Elimination of existing training;
- Pass a new test or exam/Eliminate required test or exam;
- Secure a new required license or registration/Elimination of existing registration or license;
- Submit to a new background check/Eliminate background check requirement (Background check may be financial and/or criminal);
- Submit to new periodic inspection or review/Elimination of required inspection or review; or
- Increase/Decrease in indemnification or insurance requirements.



To comply with the language in H.B. 272, the Legislative Fiscal Analyst will determine if the bill results in any of those circumstances. If the bill doesn't result in any change, the fiscal note will indicate no regulatory change. If the bill results in any one or two of those things occurring, the fiscal note will reflect a low impact (increase or decrease). If the bill results in any three or four of those things occurring, the fiscal note will reflect a medium impact (increase or decrease). If the bill results in five or more of those things occurring, the fiscal note will reflect a high impact (increase or decrease).

### *Online Fiscal Note System*

The LFA office uses an internet based Fiscal Note System (FNS) for the processing of all fiscal notes. Through this system, analysts, businesses, agencies, and local governments are notified when a bill pertaining to them has been submitted for a fiscal note. They can then enter information into the FNS that will give the analyst the data needed to prepare the note. After the analyst prepares the fiscal note, it is submitted through the system to the Director or Deputy Director for review before being forwarded to the sponsor of the bill. Once approved by the sponsor, LFA staff use the FNS to notify the legislature that the bill and fiscal note are available for legislative action.

## *Fiscal Note Process*

### *A Cooperative Process*

By rule the LFA is responsible for fiscal notes. However, fiscal note quality would lessen without agency, local government, and others' input. Given the short window in which fiscal notes must be written, if agencies and others don't respond on time their response can become irrelevant. Normally, assigned agencies will be notified three times before the analyst will move on without their responses. However, during the last week of a general session or during a special session the analyst may need to expedite the process.

### *Notifications*

When LRGC numbers the bill, assigned state and local agencies and the bill's sponsor receive notification by email and through a dashboard function of the FNS software. The analyst likewise is notified by email and the FNS dashboard.

State and local agencies are asked to log on to the online FNS and explain the bill's fiscal impact by responding to a "smart" questionnaire. A smart questionnaire is one in which the current answer determines the next question. The responses are stored on a server where they can be manipulated to facilitate analysis and eliminate data reentry. The questions are designed to get the following information:

1. Does the bill have a fiscal impact?
2. Which lines of the bill cause fiscal impact?
3. Which entities will incur a cost/savings?
4. Analyst assumptions and calculations.
5. Details of what we are buying/saving.
6. Which sources and expenditure objects are impacted and by how much?
7. What are the fiscal impacts on local governments, businesses, and individuals?

# *Fiscal Note Process - Agencies*

## *Agency Access*

There are four levels of access for agencies in the FNS. Each level has different capabilities within the system. They are:

1. Agency Fiscal Note Administrator:
  - Receives the automated email notification of bills, writes, views, edits, and submits
2. Submitter:
  - Writes, views, edits, and submits
3. Editor:
  - Views, writes, and edits
4. Viewer:
  - Views, and can add comments and information to the working notes only

The Agency Fiscal Note Administrator level is determined by agency leadership but must be approved by the LFA office (Seán Faherty, 801-326-1774, sfaherty@le.utah.gov). The Agency Fiscal Note Administrator determines who will have Submitter, Editor, and Viewer level access.

## *Log on*

The Administrator, Submitter, Editor, or Viewer will:

- Log on to the Fiscal Note System  
<https://secure.utah.gov/ufn>
- Enter a username and password or set up new user access (contact Agency Administrator)
- Select agency or business name
- Select the access level as assigned by the Agency Fiscal Note Administrator
- Follow remaining on-screen instructions

The access level feature is for the agency. It allows each agency to have its own organization within the FNS.

## *Read the Bill*

The agencies read the bill paying special attention to code changes. Only changes can cause a fiscal impact. New language is underlined, deleted language is stricken through, and repealed sections of code will be shown at the end of the bill.

## *Previous Year's Bill*

Sometimes LRGC will identify a bill from a previous year that is like the current bill. The agency can check the previous bill and its fiscal note and compare it to the current bill. If the bill is essentially the same, the fiscal note should be the same.

# *Checklist for Agencies*

## *Review Input*

Ensure information is provided to include the fiscal impact to:

- State agencies
- State revenues
- Local governments
- Businesses
- Individuals

Ensure information is provided to include:

1. The parts of the bill that cause impact
2. The program that bears the cost and gets the appropriation, should the Legislature decide to appropriate funds
3. A detailed description and explanation of the program
4. Estimated impacts are entered in the following tables:
  - Revenues
  - Costs by fund
  - Costs by expenditure category;
5. Estimated impacts on local governments, businesses, and individuals.

## *Complete Performance Note Requirements*

Agencies will review the performance note requirements and fill out an online form in the Fiscal Note System. Their answers will constitute the performance note. Agencies are encouraged to submit the performance note along with the fiscal note.

## *Fiscal Note Process – Analyst – Day One*

### *Log on*

The analyst will log on to the Fiscal Note System using Chrome or Firefox: <https://secure.utah.gov/ufn>

### *Start Right, Finish Right*

The analyst receives notification through an email that a bill has been assigned for processing. The analyst reads the bill and completes the analyst survey to make sure the fiscal note gets a proper start. They will:

- Ensure that the bill has been assigned to the correct analyst
- Ensure that the bill has been sent to the agencies and businesses that may be affected by the bill
- Check for information to determine what changes the bill will make to Utah code
- Check to see if the bill requires a performance note

The analyst can add an additional agency through the system. The analyst can also reassign the bill to another analyst if appropriate.

### *Check Substitute Bills for Impact Changes*

If the bill is a substitute bill, and does not change the original bill's fiscal impact, the fiscal note can bypass the quality control functions and go directly to the floor. The analyst does not have to wait for agency confirmation.

## *Previous Year's Bill*

The analyst should compare the current bill to a previous year's bill. If the bill is similar, the fiscal note should be the same. Changes to the bill may require a new fiscal note.

## *Determine Performance Note Requirements*

If the lead analyst thinks that a bill qualifies for a performance note, they will designate in the FNS the agency or agencies responsible for the note. When the analyst makes the designation, they contact the Deputy Director for final approval.

## *Fiscal Note Process – Analyst -Day Two*

### *Get Feedback from the Affected Agencies*

The analyst obtains feedback from agencies and businesses that may be affected by the bill.

Once received, the analyst will determine if the information is complete and will obtain additional information if needed. The analyst is not required to use the agencies numbers but will explain their reasoning in the Working Notes section and should include uploaded documents in the FNS.

If an agency says that costs can be covered within existing budgets, those costs need to be explained and documented. If possible, analysts will find out which current activity will be impacted to fund the bill.

### *Identify Who Gets the Money*

Costs must be identified with a specific state agency appropriation unit or units. This information should be in the agency response.



# *Checklist for Analyst*

## *Consistency*

The analyst will ensure that the numbers in the table always match the numbers in the narrative.

## *Long Term Impacts*

Bill costs that don't start or level off until years outside the range of the fiscal note tables, should be explained in the text and the "Delayed Implementation" box should be checked.

## *Total Cost in the Text*

Analysts should explain and list costs in the text even if an agency says it will absorb the cost for the proposed legislation, the analyst should include a description in the text.

Example:

"Enacting this bill will cost the Department of Human Services \$7,700 from the General Fund beginning in FY 2022 for caseworker investigation costs. The Department of Human Services reports that the costs of implementing the bill are already included in the current appropriation."

## *Show Implementation Costs in the Table*

Fiscal notes should reflect direct and measurable cost and revenue impacts. For example, if a bill requires an agency to make an administrative rule, the agency can detail how many hours that will take and the cost per hour of the person doing the work, regardless of whether they need more money to do it. Direct costs refer to real "out-of-pocket" spending caused by the bill without intermediate steps.

## *Reflect Unit and Total Impact*

When showing a bill's impact on individuals, the analyst will show the impact on a single person and the total impact on all individuals statewide. Businesses are treated the same way.

## *Analyst's Notes*

Any bill with a fiscal impact should include working notes. The lead analyst will give details and reasoning to explain the assumptions and calculations in determining the fiscal note.

## *Extension for Late Bills*

If a fiscal note is or will be late, the lead analyst or manager will contact the sponsor, explain the delay, and ask for additional time.

## *Don't surprise the sponsor*

If the analyst thinks that the fiscal note will surprise the sponsor of the bill, then the analyst will attempt to contact the sponsor. This will give the analyst an opportunity to explain the fiscal note and give the sponsor the opportunity to respond.

If the sponsor believes that the fiscal note is in error, then by rule the sponsor may provide evidence that will substantiate another conclusion. The sponsor may put the fiscal note on hold.

The office still must finish the note within three business days. If an analyst is unable to contact the sponsor, he/she should send the bill file to management but continue efforts to contact the sponsor.

## *Make the Electronic File Complete*

Meeting notes, emails, and phone call notes should be taken electronically or transferred to an electronic medium so that they can be uploaded to the Fiscal Note System.

## *Cost Format*

These are the things that should be included when the analyst is explaining costs:

- The dollar amount and fund
- The name of the impacted appropriation unit
- The cause of the expense
- The category of expenditure
- What is being purchased
- What changed to cause the expense
- The implementation date
- When applicable, individual or business costs should show the number of instances, and total impact.

Example:

“Enactment of this bill appropriates \$10.0 million one-time from the General Fund to Capital Budget for the design and construction of the State Fair Park Arena in FY 2022. Enactment of this legislation likely will not result in direct, measurable expenditures by Utah residents or businesses.”

## *Check Repealers*

Analysts will read the materials being eliminated and determine if any costs or savings result from the change.

## *Funds that Affect the General Fund*

According to code, year-end balances in these funds are transferred to the General Fund. Spending from these accounts reduces the amount that will be transferred to the General Fund:

- Commerce Service Fund
- Insurance Department Restricted Account
- Alcoholic Beverage Control-Liquor Control Fund

Fiscal notes that use these funds should have a reminder (example using the Commerce Service Fund):

“Commerce Service Fund spending affects the annual transfer to the General Fund.”

The table entry should show the revenue impact to the General Fund. If a bill costs \$50,000 from the Commerce Service Fund to implement, then the fiscal note would show an appropriation of \$50,000 from the Commerce Service Fund. It would also show a transfer from the General Fund to the Commerce Service Fund.

The revenue section shows that spending from the Commerce Service Fund reduces amount available for transfer to the General Fund.

| Revenues              |         |            |            |
|-----------------------|---------|------------|------------|
|                       | FY 2021 | FY 2022    | FY 2023    |
| Commerce Service Fund |         |            |            |
| General Fund          | \$0     | (\$50,000) | (\$50,000) |
| Commerce Service Fund | \$0     | \$50,000   | \$50,000   |
| Total                 | \$0     | \$0        | \$0        |
| Expenditures          |         |            |            |
| Commerce Service Fund | \$0     | \$50,000   | \$50,000   |
| Total                 | \$0     | \$50,000   | \$50,000   |

## *Calculating Costs for Board and Committee Members*

Analysts carefully review bills that add (or remove) members of boards, committees, etc. looking for language that requires or allows payment to members. Occasionally a bill will specifically prohibit payment to members. If payment isn't specifically prohibited, they calculate costs as shown below.

- For board members, they assume a cost of \$120 per member per meeting. For legislators, they assume a cost of \$400 per legislator per day, rounded to the nearest \$100. These rates are current as of January 2021.
- Board member cost of \$120 per day includes \$60 per diem for attending each official meeting lasting up to four hours, per Division of Finance policies and procedures 05-07.00, plus assumed round-trip vehicle reimbursement of 50 miles \* \$0.57 per mile. Legislator cost of \$400 per day includes all anticipated legislative costs.
- The fiscal note should show similar negative numbers (savings) when board or committee memberships are reduced.
- If the bill is unclear as to the number of times the board, committee, etc. will meet, the analyst will try to develop a reasonable assumption from the language of the bill, calling the drafting attorney, or talking to the sponsor, and will document their assumptions.

## *Quality Control – Day Three*

### *First Quality Check*

When the analyst is done with the bill, it goes to a member of management who performs the first quality check.

The Manager looks at all the same things as the analyst but generally at a higher level. They will make comments in the Working Notes box. The manager then has three options:

1. Approve the note and send it to the Deputy Director or Director
2. Explain the fiscal note's problems to the lead analyst and return the note for more work
3. Fix and approve the note, and send it to the Deputy Director or the Director

### *Director & Deputy Director's Final Check*

The Director and Deputy Director divide up the approval workload. The Director takes responsibility for bills from one chamber and the Deputy Director is responsible for bills from the other. They perform analysis like the fiscal manager's but at an even higher level. Once they approve a bill, it is sent to the sponsor for approval.

## *Sponsor Options*

When the sponsor of the bill receives notification of the fiscal impact of the proposed legislation, they may:

1. Release the fiscal note, or
2. Place the fiscal note on hold, or
3. If the sponsor disagrees with the fiscal note, contact the analyst to discuss that disagreement and provide evidence, data, or other information to support a revised fiscal note.

If the sponsor does not contact the analyst with instructions about the fiscal note within one 24-hour legislative day, the legislative rule allows the analyst to release the fiscal note. The LFA office protocol is to make every effort possible to contact a legislator before releasing the fiscal note.

## *Complete Performance Notes*

When the analyst receives a response from an agency for a performance note, they will notify the sponsor. The sponsor can approve or reject the performance note. If rejected, the agency note will be published with a rejection notice and the sponsor may create a performance note using the same form. Performance notes are attached to the bill on the legislative website.

## *Special Cases*

### *Legislative Review or Constitutional Note*

These are two titles for the same thing. LRGC may place a legislative review note on a bill that has a high likelihood of being found unconstitutional. The costs of a challenge to a bill's constitutionality vary. It may not be challenged at all. The typical expenditure threshold for the Attorney General is \$35,000 to formally request funding from the Legislature.

H.B. 179, *Voluntary Contributions Act, (2001)* cost \$140,000 to litigate plus plaintiff's attorney's fees of \$225,000. The state ultimately prevailed based on a new Supreme Court ruling.

When the state litigated the U.S. Census count in FY 2002, the Attorney General hired Washington D.C. counsel. In spite of a speedy resolution, total costs were just under \$1.2 million.

The David C. lawsuit cost \$7.6 million plus our attorney costs.

If a bill has a Legislative Review note from LRGC, the following statement should be added to the fiscal note:

“Legislative General Counsel attached a Constitutional Note to this bill. If provisions in the bill are challenged in court, there will be costs associated with defending those provisions.”



## *After Session*

### *Legislative Auditor General Duties - [JR4-2-404](#)*

- (8) After legislation that creates a new program or a new agency has gone into effect, the Legislative Auditor General shall, subject to the procedures and requirements of Section 36-12-15:
- (a) provide an outline of best practices to the governmental entity that administers the new program or to the agency;
  - (b) include in the outline information to assist that governmental entity or new agency with the creation of:
    - (i) policies that promote best practices;
    - (ii) performance measures; and
    - (iii) data collection procedures; and
  - (c) for a new program or a new agency that was created by legislation where the governmental entity failed to provide a performance note:
    - (i) provide a notice to the governmental entity that administers the new program or to the new agency that the governmental entity or agency is required to submit a performance note to the Legislative Auditor General within 30 calendar days of the date of the date of the notice;
    - (ii) retain the performance note that is received from the governmental entity or new agency and forward a copy of the note to:

- (A) the primary sponsor of the legislation;
  - (B) the opposite house sponsor of the legislation;
  - (A) the president of the Senate and speaker of the House; and
  - (B) the Senate minority leader and House minority Leader; and
- (iii) if the governmental entity or new agency fails to provide a performance review note within the required deadline, provide notice to those listed in Subsection (8)(c)(ii) that a performance note was requested from, but was not received from, the governmental entity that administers the new program or the new agency.
- (9) The Legislative Auditor General may use the performance note in its review of new programs and agencies under Section 36-12-15.

## *Fiscal Note Follow-up*

The Fiscal Note (and Budget Item) Follow-up report is given in the summer to the Executive Appropriations Committee. The report tracks three things:

1. Was the original information given to the analyst correct?
2. How well did the agency implement the program?
3. Are performance measures adequately used to track progress?

The report contains:

- A fiscal timeline so that readers can follow the money
- An explanation of the legislation and implementation
- A section that compares projections to actual costs
- Performance Measures

Fiscal Note Follow-up Report Example:

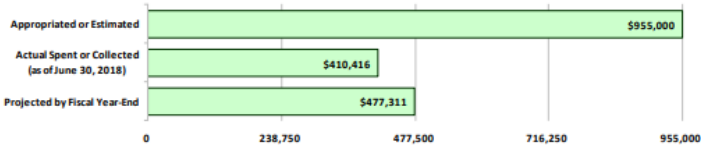
## Fiscal Note and Budget Item Follow-Up Report

### 2017 G.S. S.B. 194 - Utah Data Research Center Act

Sponsor: Sen. Jacob Anderegg

Analyst: Maddy Oritt

Committee: SS



#### Explanation

The Legislature passed S.B. 194, which established the Utah Data Research Center (UDRC) as a program within the Department of Workforce Services (DWS). The bill directed UDRC to build a longitudinal data system linking data across state agencies and education entities. UDRC must also conduct research to inform policy and provide the public with actionable data analysis.

#### Issue of Interest

DWS spent significantly less than its appropriation in FY 2018 because the Utah State Board of Education diverted grant funds it received from the U.S. Department of Education to UDRC to support systems development. The federal grant funding will last five years. The UDRC anticipates full spending of its appropriation in future years, and plans to use the underspent amount from FY 2018 for one-time costs in FY 2019, including building new servers for the database.

#### Potential Action

We recommend that DWS report to the Social Services Appropriations Subcommittee before or during the 2019 General Session on the status of FY 2018 and FY 2019 expenditures for UDRC, including why one-time server costs were not anticipated in DWS' original estimate of the cost to implement S.B. 194 and whether state funds are still needed when federal funding is available for the project.

#### Workforce Services Response

Neutral "We applied for, and received, the 5-year grant for the build of the system. The ongoing state appropriation is needed to cover the administrative piece of running the center (staffing, maintenance and upgrading of the system). As such, DWS opposes any funds be taken and recommends the funds still remaining at the closeout of FY'18 be carried over. With fiscal year-end closeout, we are still compiling the fiscal year 2018 expenses for UDRC and will have them to you as soon as possible."

