

**Representative Ben C. Ferry** proposes the following substitute bill:

**AUDIT REQUIREMENTS FOR POLITICAL**

**SUBDIVISIONS**

2004 GENERAL SESSION

STATE OF UTAH

**Sponsor: Ben C. Ferry**

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**LONG TITLE**

**General Description:**

This bill modifies provisions relating to the state auditor's analysis of financial statements of political subdivisions, interlocal organizations, and other local entities.

**Highlighted Provisions:**

This bill:

- ▶ codifies certain accounting term definitions;
- ▶ establishes four levels of accounting reports relating to political subdivisions, interlocal organizations, and other local entities;
- ▶ modifies the duties of the state auditor with regard to accounting reports;
- ▶ recodifies provisions of Title 51, Chapter 2 into a new chapter; and
- ▶ makes technical corrections.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**10-5-123**, as enacted by Chapter 34, Laws of Utah 1983



- 26            **10-6-122**, as enacted by Chapter 26, Laws of Utah 1979
- 27            **17-36-39**, as enacted by Chapter 22, Laws of Utah 1975
- 28            **17-53-225**, as enacted by Chapter 133, Laws of Utah 2000
- 29            **53A-3-403**, as last amended by Chapter 315, Laws of Utah 2003
- 30            **53A-3-404**, as last amended by Chapters 221 and 315, Laws of Utah 2003

31 ENACTS:

- 32            **51-2a-101**, Utah Code Annotated 1953
- 33            **51-2a-102**, Utah Code Annotated 1953
- 34            **51-2a-201**, Utah Code Annotated 1953
- 35            **51-2a-202**, Utah Code Annotated 1953
- 36            **51-2a-203**, Utah Code Annotated 1953
- 37            **51-2a-301**, Utah Code Annotated 1953
- 38            **51-2a-401**, Utah Code Annotated 1953
- 39            **51-2a-402**, Utah Code Annotated 1953
- 40            **51-2a-403**, Utah Code Annotated 1953

41 REPEALS:

- 42            **51-2-1**, as last amended by Chapter 8, Laws of Utah 2002, Fifth Special Session
- 43            **51-2-2**, as last amended by Chapter 235, Laws of Utah 1989
- 44            **51-2-3**, as last amended by Chapter 169, Laws of Utah 1997
- 45            **51-2-3.5**, as enacted by Chapter 235, Laws of Utah 1989
- 46            **51-2-4**, as enacted by Chapter 85, Laws of Utah 1955
- 47            **51-2-5**, as last amended by Chapter 176, Laws of Utah 1979
- 48            **51-2-6**, as last amended by Chapter 235, Laws of Utah 1989
- 49            **51-2-7**, as enacted by Chapter 260, Laws of Utah 1977
- 50            **51-2-8**, as last amended by Chapter 133, Laws of Utah 2001



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

53            Section 1. Section **10-5-123** is amended to read:

54            **10-5-123. Fund records maintained -- Pre-audit of claims -- Certifications on**  
55 **voucher -- Bids received and advertisement records -- Time for keeping.**

56            (1) The town clerk shall maintain the general books for each fund of the town and all

57 subsidiary records relating thereto, including a list of the outstanding bonds, their purpose,  
58 amount, terms, date, and place payable.

59 (2) The town clerk shall preaudit all claims and demands against the town before they  
60 are allowed, and shall prepare the necessary checks in payment. The town clerk shall certify on  
61 the voucher or check copy, as appropriate, that:

- 62 [~~1~~] (a) the claim has been preaudited and documented;
- 63 [~~2~~] (b) the claim has been directly approved by the council;
- 64 [~~3~~] (c) the claim is within the lawful debt limit of the town; and
- 65 [~~4~~] (d) the claim does not overexpend the appropriate departmental budget  
66 established by the council.

67 (3) Whenever any town is required by law to receive bids for purchases, construction,  
68 repairs, or any other purpose requiring the expenditure of funds, that town shall keep on file all  
69 bids received, together with proof of advertisement by publication or otherwise, for:

- 70 (a) at least three years following the letting of any contract pursuant to those bids; or
- 71 (b) three years following the first advertisement for the bids, if all bids pursuant to that  
72 advertisement are rejected.

73 Section 2. Section **10-6-122** is amended to read:

74 **10-6-122. Purchasing procedures and file of bids received and proof of**  
75 **advertisement -- Time for keeping.**

76 (1) All purchases or encumbrances thereof by a city shall be made or incurred  
77 according to the purchasing procedures established by each city by ordinance or resolution and  
78 only on an order or approval of the person duly authorized to act as a purchasing agent for the  
79 city.

80 (2) Whenever any city is required by law to receive bids for purchases, construction,  
81 repairs, or any other purpose requiring the expenditure of funds, that city shall keep on file all  
82 bids received, together with proof of advertisement by publication or otherwise, for:

- 83 (a) at least three years following the letting of any contract pursuant to those bids; or
- 84 (b) three years following the first advertisement for the bids, if all bids pursuant to that  
85 advertisement are rejected.

86 Section 3. Section **17-36-39** is amended to read:

87 **17-36-39. Independent audits.**

88 Independent audits are required for all counties as provided in Title 51, Chapter [2] 2a.  
89 Section 4. Section 17-53-225 is amended to read:

90 **17-53-225. County legislative body may adopt Utah Procurement Code --**

91 **Retention of records.**

92 (1) A county legislative body may adopt any or all of the provisions of Title 63,  
93 Chapter 56, Utah Procurement Code, or the rules promulgated pursuant to that code.

94 (2) Whenever any county is required by law to receive bids for purchases, construction,  
95 repairs, or any other purpose requiring the expenditure of funds, that county shall keep on file  
96 all bids received, together with proof of advertisement by publication or otherwise, for:

97 (a) at least three years following the letting of any contract pursuant to those bids; or

98 (b) three years following the first advertisement for the bids, if all bids pursuant to that  
99 advertisement are rejected.

100 Section 5. Section 51-2a-101 is enacted to read:

101 **CHAPTER 2a. ACCOUNTING REPORTS FROM POLITICAL**  
102 **SUBDIVISIONS, INTERLOCAL ORGANIZATIONS,**  
103 **AND OTHER LOCAL ENTITIES ACT**

104 **Part 1. General Provisions**

105 **51-2a-101. Title.**

106 This chapter is known as the "Accounting Reports from Political Subdivisions,  
107 Interlocal Organizations, and Other Local Entities Act."

108 Section 6. Section 51-2a-102 is enacted to read:

109 **51-2a-102. Definitions.**

110 As used in this chapter:

111 (1) "Accounting reports" means an audit, a review, a compilation, or a fiscal report.

112 (2) "Audit" means an examination that:

113 (a) analyzes the accounts of all officers of the entity having responsibility for the care,  
114 management, collection, or disbursement of moneys belonging to it or appropriated by law or  
115 otherwise acquired for its use or benefit;

116 (b) is performed in accordance with generally accepted government auditing standards;

117 and

118 (c) conforms to the uniform classification of accounts established or approved by the

119 state auditor or any other classification of accounts established by any federal government  
120 agency.

121 (3) "Audit report" means:

122 (a) the financial statements;

123 (b) the auditor's opinion on the financial statements;

124 (c) a statement by the auditor expressing positive assurance of compliance with state  
125 fiscal laws identified by the state auditor;

126 (d) a copy of the auditor's letter to management that identifies any material weakness in  
127 internal controls discovered by the auditor and other financial issues related to the expenditure  
128 of funds received from federal, state, or local governments to be considered by management;  
129 and

130 (e) management's response to the specific recommendations.

131 (4) "Compilation" means information presented in the form of financial statements that  
132 are the representation of management without the accountant undertaking to express any  
133 assurances on the statements.

134 (5) "Fiscal report" means providing information detailing revenues and expenditures of  
135 all funds using forms provided by the state auditor.

136 (6) "Governing board" means:

137 (a) the governing board of each political subdivision;

138 (b) the governing board of each interlocal organization having the power to tax or to  
139 expend public funds;

140 (c) the governing board of any local mental health authority established under the  
141 authority of Title 62A, Chapter 15, Substance Abuse and Mental Health Act;

142 (d) the governing board of any substance abuse authority established under the  
143 authority of Title 62A, Chapter 15, Substance Abuse and Mental Health Act;

144 (e) the governing board of any area agency established under the authority of Title  
145 62A, Chapter 3, Aging and Adult Services;

146 (f) the governing board of any nonprofit corporation that receives at least 50% of its  
147 funds from federal, state, and local government entities through contracts;

148 (g) the governing board of any other entity established by a local governmental unit  
149 that receives tax exempt status for bonding or taxing purposes; and

150 (h) in municipalities organized under an optional form of municipal government, the  
151 municipal legislative body.

152 (7) "Review" means performing inquiry and analytical procedures that provide the  
153 accountant with a reasonable basis for expressing limited assurance that there are no material  
154 modifications that should be made to the financial statements for them to be in conformity with  
155 generally accepted accounting principles.

156 Section 7. Section **51-2a-201** is enacted to read:

157 **Part 2. Accounting Reports**

158 **51-2a-201. Accounting reports required.**

159 (1) The governing board of an entity whose revenues or expenditures of all funds is  
160 \$350,000 or more shall cause an audit to be made of its accounts by a competent certified  
161 public accountant.

162 (2) Unless otherwise required by the state auditor under Section 51-2a-301, the  
163 governing board of an entity whose revenues or expenditures of all funds is at least \$200,000  
164 but less than \$350,000 shall cause a review to be made of its accounts by a certified public  
165 accountant.

166 (3) Unless otherwise required by the state auditor under Section 51-2a-301, the  
167 governing board of an entity whose revenues or expenditures of all funds is at least \$100,000  
168 but less than \$200,000 shall cause a compilation to be made of its accounts by a certified public  
169 accountant.

170 (4) Unless otherwise required by the state auditor under Section 51-2a-301, the  
171 governing board of an entity whose revenues and expenditures of all funds is less than  
172 \$100,000 shall cause a fiscal report to be made on forms provided by the state auditor.

173 Section 8. Section **51-2a-202** is enacted to read:

174 **51-2a-202. Reporting requirements.**

175 (1) The governing board of each entity required to have an audit, review, compilation,  
176 or fiscal report shall ensure that the audit, review, compilation, or fiscal report is:

177 (a) made at least annually; and

178 (b) filed with the state auditor within six months of the close of the fiscal year of the  
179 entity.

180 (2) If the political subdivision, interlocal organization, or other local entity receives

181 federal funding, the audit, review, or compilation shall be performed in accordance with both  
182 federal and state auditing requirements.

183 Section 9. Section **51-2a-203** is enacted to read:

184 **51-2a-203. Audit reports -- Preservation.**

185 (1) The governing body of each political subdivision and each interlocal organization  
186 or other local entity required to submit an accounting report shall:

187 (a) file and preserve all accounting reports; and

188 (b) file copies of all accounting reports with the state auditor.

189 (2) Copies of the accounting reports are open to inspection during regular office hours  
190 by any interested persons, where the accounting reports are filed.

191 (3) The state auditor shall have access to all accounting report work papers created  
192 under this chapter.

193 Section 10. Section **51-2a-301** is enacted to read:

194 **Part 3. State Auditor Duties**

195 **51-2a-301. State auditor responsibilities.**

196 (1) Except for political subdivisions that do not receive or expend public funds, the  
197 state auditor shall adopt guidelines, qualifications criteria, and procurement procedures for use  
198 in the procurement of audit services for all entities that are required by Section 51-2a-201 to  
199 cause an accounting report to be made.

200 (2) The state auditor shall follow the notice, hearing, and publication requirements of  
201 Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

202 (3) The state auditor shall:

203 (a) review the accounting report submitted to him under Section 51-2a-201; and

204 (b) if necessary, conduct additional inquiries or examinations of financial statements of  
205 the entity submitting that information.

206 (4) The governing board of each entity required by Section 51-2a-201 to submit an  
207 accounting report to the state auditor's office shall comply with the guidelines, criteria, and  
208 procedures established by the state auditor.

209 (5) Each fifth year, the state auditor shall:

210 (a) review the dollar criteria established in Section 51-2a-201 to determine if they need  
211 to be increased or decreased; and

212 (b) if the auditor determines that they need to be increased or decreased, notify the  
213 Legislature of that need.

214 (6) (a) The state auditor may require a higher level of accounting report than is required  
215 under Section 51-2a-201.

216 (b) The state auditor shall:

217 (i) develop criteria under which a higher level of accounting report may be required;

218 and

219 (ii) provide copies of those criteria to entities required to analyze and report under  
220 Section 51-2a-201.

221 Section 11. Section **51-2a-401** is enacted to read:

222 **Part 4. Penalties for Noncompliance**

223 **51-2a-401. Withholding allocated state funds from entity that does not comply**  
224 **with the accounting report requirements.**

225 (1) The state auditor shall withhold allocated state funds sufficient to pay the cost of  
226 the accounting report from any political subdivision, interlocal organization, or other local  
227 entity that does not comply with the accounting report requirements of Section 51-2a-201.

228 (2) (a) If no allocated state funds are available for withholding, the local entity shall  
229 reimburse the state auditor for any cost incurred in completing the accounting reports required  
230 under Section 51-2a-402.

231 (b) The state auditor shall release the withheld funds when the accounting report  
232 requirements are met either voluntarily or by action under Section 51-2a-402.

233 Section 12. Section **51-2a-402** is enacted to read:

234 **51-2a-402. Accounting reports of entity not complying with the report**  
235 **requirements.**

236 (1) The state auditor shall make, or shall cause an accounting report to be made, of any  
237 entity that does not comply with the accounting report requirements as provided in Title 51,  
238 Chapter 2a, Part 2, Accounting Reports.

239 (2) The state auditor shall contract with a licensed certified public accountant to  
240 complete the accounting report.

241 Section 13. Section **51-2a-403** is enacted to read:

242 **51-2a-403. General Fund reimbursed for accounting report of nonappropriated**



243 **activities -- Amount of reimbursement.**

244 (1) The General Fund shall be reimbursed by the entity for which an audit, review, or  
245 compilation are in whole or in part performed, whenever the state auditor or legislative auditor  
246 general is required by law or constitutional provision to perform that audit, review, or  
247 compilation or cause that audit, review, or compilation to be made for any office, department,  
248 division, board, agency, commission, council, authority, institution, hospital, school, college,  
249 university, or other instrumentality of the state or any of its political subdivisions for  
250 nonappropriated activities including associated students' accounts, auxiliary enterprise funds,  
251 nonprofit corporations, contracts with the federal government, federal grants-in-aid, and federal  
252 assistance programs.

253 (2) (a) The reimbursement amount shall be a pro rata share of that auditor's total cost,  
254 based upon a time-spent factor.

255 (b) An audit includes an audit of state-appropriated funds.

256 (i) If state-appropriated funds are not involved in the accounting report, the  
257 reimbursement may not be less than the average hourly cost of the operations of that auditor's  
258 office nor more than the average rate attainable from certified public accounting firms  
259 performing similar services for this state.

260 (ii) Reimbursement charges may be negotiated with that auditor's office within these  
261 limitations.

262 Section 14. Section **53A-3-403** is amended to read:

263 **53A-3-403. School district fiscal year -- Statistical reports.**

264 (1) A school district's fiscal year begins on July 1 and ends on June 30.

265 (2) (a) The district shall forward statistical reports for the preceding school year,  
266 containing items required by law or by the State Board of Education, to the state superintendent  
267 not later than November 1 of each year.

268 (b) The reports shall include information to enable the state superintendent to complete  
269 the statement required under Subsection 53A-1-301(3)(d)(v).

270 (3) The district shall forward the [~~opinion on the statistical report of the auditors~~  
271 ~~employed~~] accounting report required under Section [~~51-2-1~~] 51-2a-201 to the state  
272 superintendent not later than October 15 of each year.

273 (4) The district shall include the following information in its report:

274 (a) a summary of the number of students in the district given fee waivers, the number  
275 of students who worked in lieu of a waiver, and the total dollar value of student fees waived by  
276 the district;

277 (b) a copy of the district's fee and fee waiver policy;

278 (c) a copy of the district's fee schedule for students; and

279 (d) notices of fee waivers provided to a parent or guardian of a student.

280 Section 15. Section **53A-3-404** is amended to read:

281 **53A-3-404. Annual financial report -- Audit report.**

282 (1) The annual financial report of each school district, containing items required by law  
283 or by the State Board of Education and attested to by independent auditors, shall be prepared as  
284 required by Section ~~[51-2-1]~~ 51-2a-201.

285 (2) ~~[The]~~ If auditors are employed under Section ~~[51-2-1]~~ 51-2a-201, the auditors shall  
286 complete their field work in sufficient time to allow them to verify necessary audit adjustments  
287 included in the annual financial report to the state superintendent.

288 (3) (a) (i) The district shall forward the annual financial report to the state  
289 superintendent not later than October 1.

290 (ii) The report shall include information to enable the state superintendent to complete  
291 the statement required under Subsection 53A-1-301(3)(d)(v).

292 (b) The State Board of Education shall publish electronically a copy of the report on  
293 the Internet not later than December 15.

294 (4) The completed audit report shall be delivered to the school district board of  
295 education and the state superintendent of public instruction not later than November 30 of each  
296 year.

297 Section 16. **Repealer.**

298 This bill repeals:

299 Section **51-2-1, Audits of political subdivisions, interlocal organizations, and other**  
300 **local entities required.**

301 Section **51-2-2, When audits must be made.**

302 Section **51-2-3, Audit reports -- Contents -- Preservation.**

303 Section **51-2-3.5, State auditor responsibilities.**

304 Section **51-2-4, File of bids received and proof of advertisement -- Time for**

305 **keeping.**

306           Section **51-2-5, Withholding allocated state funds from entity that does not comply**  
307 **with audit requirements.**

308           Section **51-2-6, Audit of entity not complying with audit requirements.**

309           Section **51-2-7, General fund reimbursed for audits of nonappropriated activities**

310 **-- Amount of reimbursement.**

311           Section **51-2-8, Entities exempt from audit requirements -- Report required.**