

**CORPORATE ACCOUNTABILITY**

2004 GENERAL SESSION

STATE OF UTAH

**Sponsor: Ed P. Mayne**

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**LONG TITLE****General Description:**

This bill modifies the Commerce and Trade Code to require a public report of certain persons.

**Highlighted Provisions:**

This bill:

- requires a person that receives certain tax incentives or other financial incentives to prepare an annual public report containing:
  - the amount of financial benefit the person receives; and
  - certain employment practices of the person.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

ENACTS:

**13-39-101**, Utah Code Annotated 1953

**13-39-102**, Utah Code Annotated 1953

**13-39-103**, Utah Code Annotated 1953

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

Section 1. Section **13-39-101** is enacted to read:



28 **CHAPTER 39. BENEFICIARY REPORTING ACT**

29 **13-39-101. Title.**

30 This chapter is known as the "Beneficiary Reporting Act."

31 Section 2. Section **13-39-102** is enacted to read:

32 **13-39-102. Definitions.**

33 As used in this chapter:

34 (1) "Beneficiary" means a person who, during the preceding calendar year:

35 (a) received a credit, exemption, tax reduction, tax incentive, loan, grant, payment,  
36 investment, rebate, or other direct financial assistance under:

37 (i) Subsection 59-5-102(2), (3), or (4);

38 (ii) Section 59-10-108.7;

39 (iii) Section 59-10-109;

40 (iv) Section 59-10-129;

41 (v) Section 59-10-131;

42 (vi) Section 59-10-132;

43 (vii) Section 59-10-134;

44 (viii) Section 59-10-134.1;

45 (ix) Title 9, Chapter 2, Part 4, Enterprise Zone Act;

46 (x) Title 9, Chapter 2, Part 12, Industrial Assistance Fund;

47 (xi) Title 9, Chapter 2, Part 15, Community Economic Development Project Fund;

48 (xii) Title 9, Chapter 2, Part 17, Tourism Marketing Performance Fund;

49 (xiii) Title 9, Chapter 2, Part 18, Targeted Business Income Tax Credits Within an  
50 Enterprise Zone;

51 (xiv) Title 9, Chapter 2, Part 19, Utah Venture Capital Enhancement Act; or

52 (xv) Title 9, Chapter 2, Part 20, Aerospace and Aviation Development Zone;

53 (b) was a vendor of sales or uses exempted from the sales and use tax by Subsection

54 59-12-104 ~~§ [(1);~~ § (3), (4), (5), (6), (7), ~~§ [(8);~~ § (9), (10), (11), ~~§ [(12);~~ § (15), (16), (17),

54a ~~§ [(19), (20), (21);~~ §

55 (28), (30), (31), (32), (33), (34), (35), (36), (38), (39), (40), (41), (42), (43), (47), (48), (49),

56 (51), (53), (54), (55), (56), (59), or (60); or

57 (c) was a purchaser of sales or uses exempted from the sales and use tax by Subsection

58 59-12-104 ~~§ [(1);~~ § (4), (5), (6), (11), (15), ~~§ [(19), (20);~~ § (30), (49), (51), or (59).

(2) "Department" means the Department of Community and Economic Development created in Section 9-1-201.

(3) (a) "Employee" means a person employed by a beneficiary.

(b) "Employee" does not include an independent contractor who is paid by a beneficiary.

Section 3. Section **13-39-103** is enacted to read:

**13-39-103. Public report required of a beneficiary.**

(1) A beneficiary shall prepare a public report containing:

(a) the amount of financial benefit the beneficiary received during the preceding calendar year from each of the items listed in Subsection 13-39-102(1);

(b) the number of employees of the beneficiary;

(c) the average salary of the employees of the beneficiary;

(d) the employment benefits provided to the employees of the beneficiary; and

(e) the expenditures of the beneficiary on the employee benefits described in Subsection (1)(d).

(2) Prior to June 1 of each calendar year, a beneficiary shall:

(a) complete the report described in Subsection (1) on a form approved by the department pursuant to Subsection (3); and

(b) provide the report described in Subsection (1) to the department in a manner approved by the department pursuant to Subsection (3).

(3) (a) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the department shall by rule approve:

(i) a form on which a beneficiary shall complete the report described in Subsection (1); and

(ii) the manner in which a beneficiary shall provide the report described in Subsection (1) to the department.

(b) The department may provide means by which a beneficiary may electronically complete and provide to the department the report described in Subsection (1).

(4) A report prepared and provided to the department pursuant to this section is a public record under Title 63, Chapter 2, Government Records Access and Management Act.

(5) In an action to enforce this section, the prevailing party shall be awarded costs and

90 reasonable attorney fees.

90a **§ (6) THIS SECTION DOES NOT APPLY TO:**

90b **(a) AN ORGANIZATION DESCRIBED IN SECTION 501, INTERNAL REVENUE CODE; OR**

90c **(b) AN ENTITY, MORE THAN 50% OF THE VALUE OF THE OUTSTANDING OWNERSHIP**

90d **INTERESTS OF WHICH IS OWNED, DIRECTLY OR INDIRECTLY, BY ONE OR MORE ORGANIZATIONS**

90e **DESCRIBED IN SECTION 501, INTERNAL REVENUE CODE. §**

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**Legislative Review Note**

**as of 1-12-04 2:32 PM**

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

**Office of Legislative Research and General Counsel**

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**Fiscal Note****Corporate Accountability***10-Feb-04***Bill Number SB0057***2:35 PM*

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**State Impact**

Costs can be handled within existing budgets.

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**Individual and Business Impact**

Businesses will bear the costs of compliance which may include additional legal and accounting services.

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**Office of the Legislative Fiscal Analyst**