

Senator Wayne L. Niederhauser proposes the following substitute bill:

TRANSPARENCY IN GOVERNMENT FINANCE

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne L. Niederhauser

House Sponsor: John Dougall

LONG TITLE

General Description:

This bill modifies the Utah Administrative Services Code by providing that certain public financial information be made available on the Internet.

Highlighted Provisions:

This bill:

- ▶ provides for definitions;
- ▶ creates the Utah Public Finance Website for the purpose of providing public financial information, and provides that it be administered by the Division of Finance;
- ▶ requires state entities to provide public financial information that will be accessed through the Utah Public Finance Website;
- ▶ requires certain local entities to provide public financial information on their own websites and provide a link to their website on the Utah Public Finance Website;
- ▶ provides the required capabilities of the website, and provides for website accessibility;
- ▶ creates the Utah Transparency Advisory Board to:
 - advise the Division of Finance on website implementation and administration and on what public financial information must be made available on the



- 26 Internet; and
- 27 • to develop plans, make recommendations, and evaluate the cost effectiveness of
- 28 implementing certain information resources on the website;
- 29 ▶ provides that the Division of Finance, in connection with the board, may make rules
- 30 to:
- 31 • determine size or budget thresholds to exempt certain local entities from the
- 32 requirements of the part;
- 33 • determine what public financial information must be made available on the
- 34 Internet;
- 35 • require specific reporting obligations that are required of participating entities,
- 36 including the frequency and form of submission of the information; and
- 37 • establish minimum website capability requirements; and
- 38 ▶ provides for board membership and other duties.

39 **Monies Appropriated in this Bill:**

40 None

41 **Other Special Clauses:**

42 None

43 **Utah Code Sections Affected:**

44 ENACTS:

45 **63A-3-401**, Utah Code Annotated 1953

46 **63A-3-402**, Utah Code Annotated 1953

47 **63A-3-403**, Utah Code Annotated 1953

48 **63A-3-404**, Utah Code Annotated 1953

49 **63A-3-405**, Utah Code Annotated 1953



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

52 Section 1. Section **63A-3-401** is enacted to read:

53 **Part 4. Utah Transparency Advisory Board**

54 **63A-3-401. Definitions.**

55 As used in this part:

56 (1) "Board" means the Utah Transparency Advisory Board created under Section

57 63A-3-402.

58 (2) "Division" means the Division of Finance of the Department of Administrative
59 Services;

60 (3) "Participating local entity" means each of the following local entities, provided that
61 the entity meets the size or budget thresholds established by the rules authorized under
62 Subsection 63A-3-405(2)(a):

63 (a) a county;

64 (b) a municipality;

65 (c) a local district under Title 17B, Limited Purpose Local Government Entities - Local
66 Districts;

67 (d) a special service district under Title 17A, Chapter 2, Part 13, Utah Special Service
68 District Act;

69 (e) a state institution of higher education as defined under Section 53B-3-102;

70 (f) a school district; and

71 (g) a charter school.

72 (4) "Participating state entity" means the state of Utah, including its executive,
73 legislative, and judicial branches, its departments, divisions, agencies, boards, commissions,
74 councils, committees, and institutions.

75 (5) "Public financial information" means records that are required to be made available
76 on the Utah Public Finance Website or a participating local entity's website as required by this
77 part and as the term is defined by rule under Section 63A-3-405.

78 Section 2. Section **63A-3-402** is enacted to read:

79 **63A-3-402. Utah Public Finance Website -- Establishment and administration.**

80 (1) There is created the Utah Public Finance Website to be administered by the
81 Division of Finance with the technical assistance of the Department of Technology Services.

82 (2) The Utah Public Finance Website shall:

83 (a) permit Utah taxpayers to:

84 (i) view, understand, and track the use of taxpayer dollars by making participating state
85 entities' public financial information available on the Internet;

86 (ii) provide links to websites administered by participating local entities for the
87 purpose of providing participating local entities' public financial information as required by this

88 part and by rule under Section 63A-3-405;

89 (b) allow a person who has Internet access to use the website without paying a fee;

90 (c) allow the public to search public financial information on the Utah Public Finance
91 Website using those criteria established by the board;

92 (d) provide access to financial reports, financial audits, budgets, or other financial
93 documents that are used to allocate, appropriate, spend, and account for the government funds,
94 as may be established by rule under Section 63A-3-405;

95 (e) have a unique and simplified website address;

96 (f) be directly accessible via a link from the main page of the official state website; and

97 (g) include other links, features, or functionality that will assist the public in obtaining
98 and reviewing public financial information, as may be established by rule under Section
99 63A-3-405.

100 (3) The division shall be responsible for:

101 (a) establishing and maintaining the website, including the provision of equipment,
102 resources, and personnel as is necessary;

103 (b) maintaining an archive of all information posted to the website;

104 (c) coordinating and processing the receipt and posting of public financial information
105 from participating state entities;

106 (d) coordinating and regulating the posting of public financial information by
107 participating local entities; and

108 (e) providing staff support for the advisory committee.

109 (4) (a) A participating state entity shall permit the public to view the participating state
110 entity's public financial information via the website, beginning with information that is
111 generated not later than the fiscal year that begins July 1, 2008;

112 (b) Not later than May 15, 2009, the website shall:

113 (i) be operational; and

114 (ii) permit public access to participating state entities' public financial information;

115 Section 3. Section **63A-3-403** is enacted to read:

116 **63A-3-403. Participation by local entities.**

117 (1) (a) Not later than May 15, 2010, the following participating local entities, in
118 conformity with the rules established under Section 63A-3-405, shall be required to provide

119 public financial information via their own website and provide a link to their website via the
120 Utah Public Finance Website:

- 121 (i) state institutions of higher education;
- 122 (ii) school districts;
- 123 (iii) charter schools; and
- 124 (iv) public transit districts created under Title 17B, Chapter 2a, Part 8, Public Transit
125 District Act.

126 (b) Participating local entities subject to this Subsection (1) shall permit information
127 that is generated not later than the fiscal year that begins July 1, 2009 to be assessable via the
128 website.

129 (2) (a) Not later than May 15, 2011, the following participating local entities, in
130 conformity with the rules established under Section 63A-3-405, shall be required to provide
131 public financial information via their own website and provide a link to their website via the
132 Utah Public Finance Website:

- 133 (i) counties;
- 134 (ii) municipalities;
- 135 (iii) local districts under Title 17B, Limited Purpose Local Government Entities - Local
136 Districts, that are not already required to report; and
- 137 (iv) special service districts under Title 17A, Chapter 2, Part 13, Utah Special Service
138 District Act.

139 (b) Participating local entities subject to this Subsection (2) shall permit information
140 that is generated not later than the fiscal year that begins July 1, 2010 to be assessable via the
141 website.

142 Section 4. Section **63A-3-404** is enacted to read:

143 **63A-3-404. Utah Transparency Advisory Board -- Creation -- Membership --**
144 **Duties.**

145 (1) There is created within the division the Utah Transparency Advisory Board
146 comprised of nine members knowledgeable about public finance or providing public access to
147 public financial information as follows:

- 148 (a) one member designated by the director of the Division of Finance;
- 149 (b) one member designated by the director of the Governor's Office of Planning and

150 Budget;

151 (c) one member designated by the Judicial Council;

152 (d) one member designated by the Legislative Fiscal Analyst;

153 (e) one member of the Senate, appointed by the president of the Senate;

154 (f) one member of the House of Representatives, appointed by the speaker of the House
155 of Representatives; and

156 (g) three additional members who shall each:

157 (i) serve one-year terms, except that the individuals appointed to the initial term of
158 these positions shall serve until June 30, 2009;

159 (ii) be designated by a majority of the board members appointed under Subsections
160 (1)(a) through (f);

161 (iii) be a representative of a participating state entity or a participating local entity; and

162 (iv) (A) for the initial term ending on June 30, 2009, represent a participating state
163 entity;

164 (B) for the term beginning on July 1, 2009 and ending on June 30, 2010, represent one
165 of the following entities:

166 (I) a state institution of higher education;

167 (II) a school district or charter school; or

168 (III) a public transit district created under Title 17B, Chapter 2a, Part 8, Public Transit
169 District Act; and

170 (C) for the term beginning on July 1, 2010 and ending on June 30, 2011, represent one
171 of the following entities:

172 (I) a county;

173 (II) a municipality; or

174 (III) (Aa) a local district under Title 17B, Limited Purpose Local Government Entities -
175 Local Districts, that is not a public transit district created under Title 17B, Chapter 2a, Part 8,
176 Public Transit District Act ; or

177 (Bb) a special service district under Title 17A, Chapter 2, Part 13, Utah Special Service
178 District Act.

179 (2) The board shall:

180 (a) advise the division on matters related to the implementation and administration of

181 this part:

182 (b) develop plans, make recommendations, and assist in implementing the provisions
183 of this part:

184 (c) determine what public financial information shall be provided by participating state
185 entities and participating local entities, provided that the public financial information:

186 (i) only includes records that:

187 (A) are classified as public under Title 63, Chapter 2, Government Records Access and
188 Management Act;

189 (B) are an accounting of monies, funds, accounts, bonds, loans, expenditures, or
190 revenues, regardless of the source; and

191 (C) are owned, held, or administered by the participating state entity or participating
192 local entity required that is to provide the record; and

193 (ii) is of the type or nature that should be accessible to the public via a website based
194 on considerations of:

195 (A) the cost effectiveness of providing the information;

196 (B) the value of providing the information to the public; and

197 (C) privacy and security considerations; and

198 (d) evaluate the cost effectiveness of implementing specific information resources and
199 features on the website.

200 (3) The board shall annually elect a chair and a vice chair from its members.

201 (4) (a) Except for those members appointed under Subsection (1)(g), each member
202 shall serve a two year term.

203 (b) When a vacancy occurs in the membership for any reason, the replacement shall be
204 appointed for the remainder of the unexpired term.

205 (5) The board shall meet as it determines necessary to accomplish its duties.

206 (6) Reasonable notice shall be given to each member of the board prior to any meeting.

207 (7) A majority of the board constitutes a quorum for the transaction of business.

208 (8) (a) (i) Members who are not government employees shall receive no compensation
209 or benefits for their services, but may receive per diem and expenses incurred in the
210 performance of the member's official duties at the rates established by the Division of Finance
211 under Sections 63A-3-106 and 63A-3-107.

212 (ii) Members may decline to receive per diem and expenses for their service.

213 (b) (i) State government officer and employee members who do not receive salary, per
 214 diem, or expenses from their agency for their service may receive per diem and expenses
 215 incurred in the performance of their official duties from the board at the rates established by the
 216 Division of Finance under Sections 63A-3-106 and 63A-3-107.

217 (ii) State government officer and employee members may decline to receive per diem
 218 and expenses for their service.

219 (c) (i) Local government members who do not receive salary, per diem, or expenses
 220 from the entity that they represent for their service may receive per diem and expenses incurred
 221 in the performance of their official duties at the rates established by the Division of Finance
 222 under Sections 63A-3-106 and 63A-3-107.

223 (ii) Local government members, if any, may decline to receive per diem and expenses
 224 for their service.

225 Section 5. Section **63A-3-405** is enacted to read:

226 **63A-3-405. Rulemaking authority.**

227 (1) ~~H~~→ (a) ~~H~~ After consultation with the board, and in accordance with Title 63,
 227a Chapter 46a,

228 Utah Administrative Rulemaking Act, the Division of Finance shall make rules to:

229 ~~H~~→ [~~(a)~~] (i) ~~H~~ require participating state entities to provide public financial
 229a information for
 230 inclusion on the Utah Public Finance Website;

231 ~~H~~→ [~~(b)~~] (ii) (A) ~~H~~ establish size or budget thresholds to identify those local entities
 231a that qualify as
 232 participating local entities as defined in this part;

233 ~~H~~→ [~~(iii)~~] (B) ~~H~~ require participating local entities to provide public financial
 233a information in
 234 accordance with the requirements of this part, with a specified content, reporting frequency and
 235 form; and

236 ~~H~~→ [~~(iii)~~] (C) ~~H~~ require the participating local entity's website to be accessible by
 236a link or other
 237 direct route from the Utah Public Finance Website;

238 ~~H~~→ [~~(c)~~] (iii) ~~H~~ define, either uniformly for all participating state entities or
 238a participating local
 239 entities, or on an entity by entity basis, the term "public financial information" using the
 240 standards provided in Subsection 63A-3-404(2)(c).

241 ~~H~~→ [~~(d)~~] (iv) ~~H~~ establish procedures for obtaining, submitting, reporting, storing,
 241a and providing
 242 public financial information on the Utah Public Finance Website and on local entities'

243 websites, which may include a specified reporting frequency and form; ~~H~~→ and
 244 [~~(e)~~] (v) ~~←H~~ determine the search methods and the search criteria that shall be made
 244a available to
 245 the public as part of a website used by a participating local entity under the requirements of this
 246 part, which criteria may include:

- 247 ~~H~~→ [~~(i)~~] (A) ~~←H~~ fiscal year;
- 248 ~~H~~→ [~~(ii)~~] (B) ~~←H~~ expenditure type;
- 249 ~~H~~→ [~~(iii)~~] (C) ~~←H~~ name of the agency;
- 250 ~~H~~→ [~~(iv)~~] (D) ~~←H~~ payee;
- 251 ~~H~~→ [~~(v)~~] (E) ~~←H~~ date;
- 252 ~~H~~→ [~~(vi)~~] (F) ~~←H~~ amount; and
- 253 ~~H~~→ [~~(vii)~~] (G) ~~←H~~ any other criteria designated by the rule ~~H~~→ [;] .

253a **(b) Rules that establish the obligations of participating entities under the authority of**
 253b **Subsection (1)(a) shall give special consideration to the budget and resource limitations of a**
 253c **participating entity that has a current annual budget of less than \$10 million. ~~←H~~**

254 (2) After consultation with the board, and in accordance with Title 63, Chapter 46a,
 255 Utah Administrative Rulemaking Act, the Division of Finance may make rules to:

- 256 (a) require a participating state entity or a participating local entity to list certain
 257 expenditures made by a person under a contract with the entity;
- 258 (b) if a list is required under Subsection (2)(a), require the following information to be
 259 included:
 - 260 (i) the name of the participating state entity or a participating local entity making the
 261 expenditure;
 - 262 (ii) the name of the person receiving the expenditure;
 - 263 (iii) the date of the expenditure;
 - 264 (iv) the amount of the expenditure;
 - 265 (v) the purpose of the expenditure;
 - 266 (vi) the name of each party to the contract;
 - 267 (vii) an electronic copy of the contract; or
 - 268 (viii) any other criteria designated by rule.

S.B. 38 2nd Sub. (Salmon) - Transparency in Government Finance

Fiscal Note

2008 General Session
State of Utah

State Impact

Implementation of this bill will require \$250,800 ongoing and \$480,400 one-time for the Division of Finance for additional hardware, software, and personnel hours to develop and maintain a public facing financial data warehouse for state agencies.

| | <u>FY 2008</u> <u>Approp.</u> | <u>FY 2009</u> <u>Approp.</u> | <u>FY 2010</u> <u>Approp.</u> | <u>FY 2008</u> <u>Revenue</u> | <u>FY 2009</u> <u>Revenue</u> | <u>FY 2010</u> <u>Revenue</u> |
|------------------------|----------------------------------|----------------------------------|----------------------------------|----------------------------------|----------------------------------|----------------------------------|
| General Fund | \$0 | \$0 | \$250,800 | \$0 | \$0 | \$0 |
| General Fund, One-Time | \$0 | \$480,400 | \$0 | \$0 | \$0 | \$0 |
| Total | \$0 | \$480,400 | \$250,800 | \$0 | \$0 | \$0 |

Individual, Business and/or Local Impact

Specific costs will depend on what information cities, towns, counties, school districts, and special service districts currently keep and whether that information is currently available to the public. Businesses and individuals may receive certain benefits from the ability to view state and local government financial and contractual data online.