

**Senator Wayne L. Niederhauser** proposes the following substitute bill:

**UTAH TRANSPARENCY ADVISORY BOARD**

**AMENDMENTS**

2009 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Wayne L. Niederhauser**

House Sponsor: Kenneth W. Sumsion

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**LONG TITLE**

**General Description:**

This bill requires certain local governments and other entities to provide information to and participate in the Utah Public Finance Website.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
  - ▶ changes the composition of the Utah Transparency Advisory Board;
  - ▶ provides for financial information from certain local entities to be included on the local entities' websites and linked to the Utah Public Finance Website;
  - ▶ provides for an exception from liability provisions for improper disclosure of records under Title 63G, Chapter 2, Government Records Access and Management Act;
  - ▶ provides time periods for the provision of financial information by local entities;
- and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None



26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **63A-3-401**, as enacted by Laws of Utah 2008, Chapter 234

31 **63A-3-402**, as enacted by Laws of Utah 2008, Chapter 234

32 **63A-3-403**, as enacted by Laws of Utah 2008, Chapter 234

33 **63A-3-404**, as enacted by Laws of Utah 2008, Chapter 234

34 ENACTS:

35 **63A-3-405**, Utah Code Annotated 1953



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

38 Section 1. Section **63A-3-401** is amended to read:

39 **63A-3-401. Definitions.**

40 As used in this part:

41 (1) "Board" means the Utah Transparency Advisory Board created under Section  
42 63A-3-403.

43 (2) "Division" means the Division of Finance of the Department of Administrative  
44 Services.

45 (3) "Participating local entity" means each of the following local entities, if the entity  
46 meets the size or budget thresholds established by the rules authorized under Subsection  
47 63A-3-404(2)(a):

48 (a) a county;

49 (b) a municipality;

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

52 (d) a special service district under Title 17D, Chapter 1, Special Service District Act;

53 (e) a school district; and

54 (f) a charter school.

55 [~~3~~] (4) "Participating state entity" means the state of Utah, including its executive,  
56 legislative, and judicial branches, its departments, divisions, agencies, boards, commissions,

57 councils, committees, and institutions.

58 ~~[(4)]~~ (5) "Public financial information" means records that are required to be made  
 59 available on the Utah Public Finance Website ~~[as required by this part]~~ or a participating local  
 60 entity's website as required by this part and as the term is defined by rule under Section  
 61 63A-3-404.

62 Section 2. Section **63A-3-402** is amended to read:

63 **63A-3-402. Utah Public Finance Website -- Establishment and administration --**  
 64 **Records disclosure.**

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

67 (2) The Utah Public Finance Website shall:

68 (a) permit Utah taxpayers to:

69 (i) view, understand, and track the use of taxpayer dollars by making public financial  
 70 information available on the Internet for participating state entities' ~~[public financial~~  
 71 ~~information available on the Internet;]~~ and participating local entities, using the Utah Public  
 72 Finance Website; and

73 (ii) link to websites administered by participating local entities that do not use the Utah  
 74 Public Finance Website for the purpose of providing participating local entities' public  
 75 financial information as required by this part and by rule under Section 63A-3-404;

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

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

79 (d) provide access to financial reports, financial audits, budgets, or other financial  
 80 documents that are used to allocate, appropriate, spend, and account for the government funds,  
 81 as may be established by rule under Section 63A-3-404;

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

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

84 (g) include other links, features, or functionality that will assist the public in obtaining  
 85 and reviewing public financial information, as may be established by rule under Section  
 86 63A-3-404.

87 (3) The division shall ~~[be responsible for]~~:

88 (a) ~~[establishing and maintaining]~~ establish and maintain the website, including the  
 89 provision of equipment, resources, and personnel as is necessary;

90 (b) ~~[maintaining]~~ maintain an archive of all information posted to the website;

91 (c) ~~[coordinating and processing]~~ coordinate and process the receipt and posting of  
 92 public financial information from participating state entities; ~~[and]~~

93 (d) coordinate and regulate the posting of public financial information by participating  
 94 local entities; and

95 ~~[(d) providing]~~ (e) provide staff support for the advisory committee.

96 (4) (a) A participating state entity shall permit the public to view the participating  
 97 ~~[state]~~ entity's public financial information via the website, beginning with information that is  
 98 generated not later than the fiscal year that begins July 1, 2008 ~~H→~~ , **except that public financial**  
 98a **information for an institution of higher education shall be provided beginning with**  
 98b **information generated for the fiscal year beginning July 1, 2009 ←H** .

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

100 (i) be operational; and

101 (ii) permit public access to participating state entities' public financial information ~~H→~~ ,  
 101a **except as provided in Subsection (4)(c) ←H** .

101b ~~H→~~ **(c) An institution of higher education that is a participating state entity shall**  
 101c **submit the entity's public financial information at a time allowing for inclusion on the website**  
 101d **no later May 15, 2010. ←H**

102 (5) A person who negligently discloses a record that is classified as private, protected,  
 103 or controlled by Title 63G, Chapter 2, Government Records Access and Management Act, is  
 104 not criminally or civilly liable for an improper disclosure of the record if the record is disclosed  
 105 solely as a result of the preparation or publication of the Utah Public Finance Website.

106 Section 3. Section **63A-3-403** is amended to read:

107 **63A-3-403. Utah Transparency Advisory Board -- Creation -- Membership --**  
 108 **Duties.**

109 (1) There is created within the division the Utah Transparency Advisory Board  
 110 comprised of ~~[seven]~~ members knowledgeable about public finance or providing public access  
 111 to public financial information as follows:

112 (a) one member designated by the director of the Division of Finance;

113 (b) one member designated by the director of the Governor's Office of Planning and  
 114 Budget;

115 (c) one member appointed by the governor on advice from the Judicial Council, who  
 116 shall serve until June 30, 2009;

117 (d) one member appointed by the governor on advice from the Legislative Fiscal  
 118 Analyst;

119 (e) one member of the Senate, appointed by the governor on advice from the president  
120 of the Senate;

121 (f) one member of the House of Representatives, appointed by the governor on advice  
122 from the speaker of the House of Representatives; ~~[and]~~

123 (g) one member designated by the director of the Department of Technology  
124 Services[-]; ~~H→~~ ~~[and]~~

124a **(h) one member appointed by the governor from a state institution of higher education,**  
124b **who shall serve for one year beginning on July 1, 2009 and ending on June 30, 2010; and**

125 ~~[(hr)]~~ ~~(i)~~ ~~←H~~ three additional members ~~H→~~ ~~[designated by a majority of the board members~~  
125a ~~appointed~~

126 **under Subsections (1)(a) through (f)] appointed by the governor, ←H** who shall each serve  
126a one-year terms as follows:

127 (i) for the term beginning on July 1, 2009 and ending on June 30, 2010, represent the  
128 following entities:

129 (A) a school district;

130 (B) a charter school; and

131 (C) a public transit district created under Title 17B, Chapter 2a, Part 8, Public Transit  
132 District Act; and

133 (ii) for the term beginning on July 1, 2010 and ending on June 30, 2011, represent the  
134 following entities:

135 (A) a county;

136 (B) a municipality; and

137 (C) (I) a local district under Title 17B, Limited Purpose Local Government Entities -  
138 Local Districts, that is not a public transit district created under Title 17B, Chapter 2a, Part 8,  
139 Public Transit District Act; or

140 (II) a special service district under Title 17D, Chapter 1, Special Service District Act.

141 (2) The board shall:

142 (a) advise the division on matters related to the implementation and administration of  
143 this part;

144 (b) develop plans, make recommendations, and assist in implementing the provisions  
145 of this part;

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

148 (i) only includes records that:

149 (A) are classified as public under Title 63G, Chapter 2, Government Records Access

150 and Management Act;

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

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

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

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

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

159 (C) privacy and security considerations; [~~and~~]

160 (d) evaluate the cost effectiveness of implementing specific information resources and  
161 features on the website[-];

162 (e) establish size or budget thresholds to identify those local entities that qualify as  
163 participating local entities as defined in this part, giving special consideration to the budget and  
164 resource limitations of an entity with a current annual budget of less than \$10,000,000;

165 (f) require participating local entities to provide public financial information in  
166 accordance with the requirements of this part, with a specified content, reporting frequency,  
167 and form;

168 (g) require a participating local entity's website to be accessible by link or other direct  
169 route from the Utah Public Finance Website if the participating local entity does not use the  
170 Utah Public Finance Website; and

171 (h) determine the search methods and the search criteria that shall be made available to  
172 the public as part of a website used by a participating local entity under the requirements of this  
173 part, which criteria may include:

174 (i) fiscal year;

175 (ii) expenditure type;

176 (iii) name of the agency;

177 (iv) payee;

178 (v) date; and

179 (vi) amount.

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

181 (4) (a) [~~Each~~] Except for a member appointed under Subsections (1)(c) ~~§~~ ~~[(h), and (i)]~~  
 181a and (h) ~~←~~§ .

182 each member shall serve a two-year term.

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

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

186 (6) Reasonable notice shall be given to each member of the board [~~prior to~~] before any  
 187 meeting.

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

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

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

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

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

200 (c) ~~§~~ ~~(i)~~ ~~←~~ ~~§~~ Local government members who do not receive salary, per diem, or  
 200a expenses from

201 the entity that they represent for their service may receive per diem and expenses incurred in  
 202 the performance of their official duties at the rates established by the Division of Finance under  
 203 Sections 63A-3-106 and 63A-3-107.

203a ~~§~~ ~~(ii)~~ Local government officer and employee members may decline to receive per  
 203b diem and expenses for their service. ~~←~~ ~~§~~

204 Section 4. Section ~~63A-3-404~~ is amended to read:

205 **63A-3-404. Rulemaking authority.**

206 (1) After consultation with the board, and in accordance with Title 63G, Chapter 3,  
 207 Utah Administrative Rulemaking Act, the Division of Finance shall make rules to:

208 (a) require participating state entities to provide public financial information for  
 209 inclusion on the Utah Public Finance Website;

210 (b) define, either uniformly for all participating state entities, or on an entity by entity  
 211 basis, the term "public financial information" using the standards provided in Subsection

212 63A-3-403(2)(c); and

213 (c) establish procedures for obtaining, submitting, reporting, storing, and providing  
214 public financial information on the Utah Public Finance Website, which may include a  
215 specified reporting frequency and form.

216 (2) After consultation with the board, and in accordance with Title 63G, Chapter 3,  
217 Utah Administrative Rulemaking Act, the Division of Finance may make rules to:

218 (a) require a participating state or local entity to list certain expenditures made by a  
219 person under a contract with the entity; and

220 (b) if a list is required under Subsection (2)(a), require the following information to be  
221 included:

222 (i) the name of the participating state or local entity making the expenditure;

223 (ii) the name of the person receiving the expenditure;

224 (iii) the date of the expenditure;

225 (iv) the amount of the expenditure;

226 (v) the purpose of the expenditure;

227 (vi) the name of each party to the contract;

228 (vii) an electronic copy of the contract; or

229 (viii) any other criteria designated by rule.

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

231 **63A-3-405. Participation by local entities.**

232 (1) (a) Not later than May 15, 2010, the following participating local entities, in  
233 conformity with the rules established under Section 63A-3-404, shall provide public financial  
234 information through the Utah Public Finance Website or their own website and provide a link  
235 to their website through the Utah Public Finance Website:

236 (i) school districts;

237 (ii) charter schools; and

238 (iii) public transit districts created under Title 17B, Chapter 2a, Part 8, Public Transit  
239 District Act.

240 (b) Participating local entities subject to this Subsection (1) shall permit information  
241 that is generated not later than the fiscal year that begins July 1, 2009 to be accessible via the  
242 website.



243           (2) (a) Not later than May 15, 2011, the following participating local entities, in  
244 conformity with the rules established under Section 63A-3-404, shall be required to provide  
245 public financial information through the Utah Public Finance Website or their own website and  
246 provide a link to their website through the Utah Public Finance Website:

247           (i) counties;

248           (ii) municipalities;

249           (iii) local districts under Title 17B, Limited Purpose Local Government Entities - Local  
250 Districts, that are not already required to report; and

251           (iv) special service districts under Title 17D, Chapter 1, Special Service District Act.

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

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**S.B. 18 1st Sub. (Green) - Utah Transparency Advisory Board Amendments**

**Fiscal Note**

2009 General Session

State of Utah

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**State Impact**

Implementation of this bill will require \$70,400 one-time in FY 2010 and FY 2011 for a temporary Financial Analyst II in the Division of Finance and may require an additional appropriation of \$24,000 per 100 non-state entities that choose to use the State's transparency website.

	<u>2009</u> <u>Approp.</u>	<u>2010</u> <u>Approp.</u>	<u>2011</u> <u>Approp.</u>	<u>2009</u> <u>Revenue</u>	<u>2010</u> <u>Revenue</u>	<u>2011</u> <u>Revenue</u>
General Fund, One-Time	\$0	\$70,400	\$70,400	\$0	\$0	\$0
<b>Total</b>	<b>\$0</b>	<b>\$70,400</b>	<b>\$70,400</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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**Individual, Business and/or Local Impact**

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