

1                                   **UNIFORM FISCAL PROCEDURES ACT**  
2                                   **AMENDMENTS FOR TOWNS, CITIES, AND**  
3                                   **COUNTIES AMENDMENTS**

4                                   2010 GENERAL SESSION

5                                   STATE OF UTAH

6                                   **Chief Sponsor: Fred R Hunsaker**

7                                   Senate Sponsor: Peter C. Knudson

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9                                   **LONG TITLE**

10                                  **General Description:**

11                                  This bill amends the public notice and hearing requirements for the uniform fiscal  
12                                  procedures of towns, cities, and counties.

13                                  **Highlighted Provisions:**

14                                  This bill:

- 15                                  ▶ amends notice requirements;
- 16                                  ▶ requires a town council to give public notice and hold a hearing before amending a  
17                                  budget or allocating or transferring funds between a utility enterprise fund and  
18                                  another fund;
- 19                                  ▶ requires the governing body of a city to give public notice and hold a hearing before  
20                                  allocating or transferring funds between a utility enterprise fund and another fund;
- 21                                  ▶ requires the governing body of a county to give public notice and hold a hearing  
22                                  before amending a budgetary fund or increasing a budget appropriation of any  
23                                  budgetary fund;
- 24                                  ▶ requires the governing body of a county to give public notice and hold a hearing  
25                                  before allocating or transferring funds between a utility enterprise fund and another  
26                                  fund; and
- 27                                  ▶ makes technical corrections.

28                                  **Monies Appropriated in this Bill:**

29                                  None

30 **Other Special Clauses:**

31 None

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **10-5-107**, as last amended by Laws of Utah 2006, Chapter 178

35 **10-5-108**, as last amended by Laws of Utah 2009, Chapter 388

36 **10-6-113**, as last amended by Laws of Utah 2009, Chapter 388

37 **10-6-135**, as last amended by Laws of Utah 2006, Chapter 178

38 **17-36-26**, as last amended by Laws of Utah 2009, Chapter 388

39 **17-36-32**, as last amended by Laws of Utah 2006, Chapter 178

40 REPEALS:

41 **17-36-25**, as last amended by Laws of Utah 2009, Chapter 388



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

44 Section 1. Section **10-5-107** is amended to read:

45 **10-5-107. Tentative budgets required for public inspection -- Contents --**

46 **Adoption of tentative budget.**

47 (1) (a) On or before the first regularly scheduled town council meeting of May, the  
48 mayor shall:

49 (i) prepare for the ensuing year, on forms provided by the state auditor, a tentative  
50 budget for each fund for which a budget is required;

51 (ii) make the tentative budget available for public inspection; and

52 (iii) submit the tentative budget to the town council.

53 (b) The tentative budget of each fund shall set forth in tabular form:

54 (i) actual revenues and expenditures in the last completed fiscal year;

55 (ii) estimated total revenues and expenditures for the current fiscal year; and

56 (iii) the mayor's estimates of revenues and expenditures for the budget year.

57 (2) (a) The mayor shall:

- 58 (i) estimate the amount of revenue available to serve the needs of each fund;
- 59 (ii) estimate the portion to be derived from all sources other than general property
- 60 taxes; and
- 61 (iii) estimate the portion that must be derived from general property taxes.
- 62 (b) From the estimates required by Subsection (2)(a), the mayor shall compute and
- 63 disclose in the budget the lowest rate of property tax levy that will raise the required amount of
- 64 revenue, calculating the levy on the latest taxable value.
- 65 (3) (a) Before the public hearing required under Section 10-5-108, the town council:
- 66 (i) shall review, consider, and tentatively adopt the tentative budget in any regular
- 67 meeting or special meeting called for that purpose; and
- 68 (ii) may amend or revise the tentative budget.
- 69 (b) At the meeting at which the town council adopts the tentative budget, the council
- 70 shall establish the time and place of the public hearing required under Section 10-5-108.
- 71 (4) (a) ~~[If within any enterprise utility fund, allocations or transfers]~~ Except as provided
- 72 in Subsection (4)(d), if a town council includes in a tentative budget, or an amendment to a
- 73 budget, allocations or transfers from a utility enterprise fund to another fund that are not
- 74 reasonable allocations of costs between [funds are included in a tentative budget,] the utility
- 75 enterprise fund and the other fund, the governing body shall:
- 76 (i) hold a public hearing;
- 77 (ii) prepare a written notice of the date, time, place, and purpose of the hearing [shall
- 78 be mailed to utility fund customers] as described in Subsection (4)(b); and
- 79 (iii) subject to Subsection (4)(c), mail the notice to each utility enterprise fund
- 80 customer at least seven days before the day of the hearing.
- 81 (b) The purpose portion of the written notice shall identify:
- 82 (i) the utility enterprise [~~utility~~] fund from which money is being allocated or
- 83 transferred;
- 84 (ii) the amount being allocated or transferred; and
- 85 (iii) the fund to which the money is being allocated or transferred.

86 (c) The town council:

87 (i) may print the written notice required under Subsection (4)(a)(ii) on the utility  
88 enterprise fund customer's bill; and

89 (ii) shall include the written notice required under Subsection (4)(a)(ii) as separate  
90 notification mailed or transmitted with the utility enterprise fund customer's bill.

91 (d) The notice and hearing requirements in this Subsection (4) are not required for an  
92 allocation or a transfer included in an original budget or in a subsequent budget amendment  
93 previously approved by the town council for the current fiscal year.

94 Section 2. Section **10-5-108** is amended to read:

95 **10-5-108. Budget hearing -- Notice -- Adjustments.**

96 (1) Prior to the adoption of the final budget~~[, each]~~ or an amendment to a budget, a  
97 town council shall hold a public hearing to receive public comment.

98 (2) The town council shall provide notice of the place, purpose, and time of the public  
99 hearing by publishing notice at least seven days before the hearing:

100 (a) (i) at least once in a newspaper of general circulation in the town; or

101 (ii) if there is no newspaper of general circulation, then by posting the notice in three  
102 public places at least 48 hours prior to the hearing; and

103 ~~[(b) as required in Section 45-1-101.]~~

104 (b) on the Utah Public Notice Website created under Section 63F-1-701.

105 (3) After the hearing, the town council, subject to Section 10-5-110, may adjust  
106 expenditures and revenues in conformity with this chapter.

107 Section 3. Section **10-6-113** is amended to read:

108 **10-6-113. Budget -- Notice of hearing to consider adoption.**

109 At the meeting at which each tentative budget is adopted, the governing body shall  
110 establish the time and place of a public hearing to consider its adoption and shall order that  
111 notice of the public hearing be published at least seven days prior to the hearing:

112 (1) (a) in at least one issue of a newspaper of general circulation published in the  
113 county in which the city is located; or

114 (b) if there is not a newspaper as described in Subsection (1)(a), then the notice  
115 required by this section may be posted in three public places within the city; and

116 [~~(2) as required in Section 45-1-101.~~]

117 (2) on the Utah Public Notice Website created under Section 63F-1-701.

118 Section 4. Section **10-6-135** is amended to read:

119 **10-6-135. Operating and capital budgets.**

120 (1) (a) As used in this section, "operating and capital budget" means a plan of financial  
121 operation for an enterprise or other required special fund that includes estimates of operating  
122 resources, expenses, and other outlays for a fiscal period.

123 (b) Except as otherwise expressly provided, any reference to "budget" or "budgets" and  
124 the procedures and controls relating to them in other sections of this chapter do not apply or  
125 refer to the operating and capital budgets described in this section.

126 [~~(1) On~~] (2) At or before the time the governing body adopts budgets for the funds [set  
127 forth] described in Section 10-6-109, [it] the governing body shall adopt [for the ensuing fiscal  
128 period]:

129 (a) an ["operating and capital budget["] for each enterprise fund for the ensuing fiscal  
130 period; and [shall adopt]

131 (b) the type of budget for other special funds as required by the Uniform Accounting  
132 Manual for Utah Cities.

133 [~~(2)(a) An "operating and capital budget," for purposes of this section, means a plan of~~  
134 ~~financial operation for an enterprise or other required special fund, embodying estimates of~~  
135 ~~operating resources and expenses and other outlays for a fiscal period.]~~

136 [~~(b) Except as otherwise expressly provided, the reference to "budget" or "budgets" and~~  
137 ~~the procedures and controls relating to them in other sections of this chapter do not apply or~~  
138 ~~refer to the "operating and capital budgets" provided for in this section.]~~

139 [~~(3) "Operating and capital budgets" shall be adopted and administered in the following~~  
140 ~~manner:]~~

141 (3) (a) The governing body shall adopt and administer an operating and capital budget

142 in accordance with this Subsection (3).

143 ~~[(a) Or]~~ (b) At or before the first regularly scheduled meeting of the governing body in  
144 the last May of the current fiscal period, the budget officer shall:

145 (i) prepare for the ensuing fiscal period and file with the governing body a tentative  
146 operating and capital budget for:

147 (A) each enterprise fund; and [for]

148 (B) other required special funds[, together with];

149 (ii) include with the tentative operating and capital budget described in Subsection  
150 (3)(b)(i) specific work programs as submitted by [the] each department head; and

151 (iii) include any other supporting data required by the governing body.

152 ~~[(b)]~~ (c) Each city of the first or second class shall, and [a] each city of the third, fourth,  
153 or fifth class may, submit a supplementary estimate of all capital projects which [the] a  
154 department head believes should be undertaken within the three next succeeding fiscal periods.

155 ~~[(c) (i) The budget officer shall prepare estimates in cooperation with the appropriate~~  
156 ~~department heads.]~~

157 ~~[(ii) Each department head shall be heard by the budget officer before making final~~  
158 ~~estimates, but thereafter the officer may revise any department's estimate for the purpose of~~  
159 ~~presenting the budget to the governing body.]~~

160 ~~[(d) (i) If within any enterprise fund,]~~

161 (d) (i) Subject to Subsection (3)(d)(ii), the budget officer shall prepare all estimates  
162 after review and consultation with each department head described in Subsection (3)(c).

163 (ii) After complying with Subsection (3)(d)(i), the budget officer may revise any  
164 departmental estimate before it is filed with the governing body.

165 (e) (i) Except as provided in Subsection (3)(e)(iv), if the governing body includes in a  
166 tentative budget or an amendment to a budget allocations or transfers from a utility enterprise  
167 fund to another fund that are not reasonable allocations of costs between [funds are included in  
168 a tentative budget,] the utility enterprise fund and the other fund, the governing body shall:

169 (A) hold a public hearing;

170 (B) prepare a written notice of the date, time, place, and purpose of the hearing [~~shall~~  
171 ~~be mailed to utility fund customers~~], as described in Subsection (3)(e)(ii); and

172 (C) subject to Subsection (3)(e)(iii), mail the written notice to each utility enterprise  
173 fund customer at least seven days [~~prior to the hearing~~] before the day of the hearing.

174 (ii) The purpose portion of the written notice required under Subsection [~~(3)(d)(i)~~]  
175 (3)(e)(i)(B) shall identify:

176 (A) the utility enterprise [~~utility~~] fund from which money is being transferred;

177 (B) the amount being transferred; and

178 (C) the fund to which the money is being transferred.

179 (iii) The governing body:

180 (A) may print the written notice required under Subsection (3)(e)(i) on the utility  
181 enterprise fund customer's bill; and

182 (B) shall include the written notice required under Subsection (3)(e)(i) as a separate  
183 notification mailed or transmitted with the utility enterprise fund customer's bill.

184 (iv) The notice and hearing requirements in this Subsection (3)(e) are not required for  
185 an allocation or a transfer included in an original budget or in a subsequent budget amendment  
186 previously approved by the governing body for the current fiscal year.

187 (4) (a) [~~The~~] Each tentative budget [or budgets], amendment to a budget, or budget  
188 shall be reviewed and considered by the governing body at any regular meeting or special  
189 meeting called for that purpose.

190 (b) The governing body may make changes in the tentative budgets.

191 (5) Budgets for enterprise or other required special funds shall comply with the public  
192 hearing requirements established in Sections 10-6-113 and 10-6-114.

193 (6) (a) Before the last June 30 of each fiscal period, or, in the case of a property tax  
194 increase under Sections 59-2-919 through 59-2-923, before August 31 of the year for which a  
195 property tax increase is proposed, the governing body shall adopt an operating and capital  
196 budget for each applicable fund for the ensuing fiscal period.

197 (b) A copy of the budget as finally adopted for each fund shall be:

- 198 (i) certified by the budget officer;
- 199 (ii) filed by the budget officer in the office of the city auditor or city recorder;
- 200 (iii) available to the public during regular business hours; and
- 201 (iv) filed with the state auditor within 30 days after [~~adoption~~] the day on which the
- 202 budget is adopted.

203 (7) (a) Upon final adoption, the operating and capital budget is in effect for the budget  
 204 period, subject to later amendment.

205 (b) During the budget period the governing body may, in any regular meeting or special  
 206 meeting called for that purpose, review any one or more of the operating and capital budgets  
 207 for the purpose of determining if the total of any of them should be increased.

208 (c) If the governing body decides that the budget total of one or more of the funds  
 209 should be increased under Subsection (7)(b), the governing body shall follow the procedures  
 210 set forth in Section 10-6-136 [~~shall be followed~~].

211 (8) Expenditures from operating and capital budgets shall conform to the requirements  
 212 relating to budgets specified in Sections 10-6-121 through 10-6-126.

213 Section 5. Section **17-36-26** is amended to read:

214 **17-36-26. Increase in budgetary fund or general fund -- Public hearing.**

215 (1) [~~(a) The~~] Before the governing body may, by resolution, increase a budget  
 216 appropriation of any budgetary fund, increase the budget of the general fund [~~may be increased~~  
 217 ~~by resolution of the governing body, only after a duly called hearing shall have been held and~~  
 218 ~~and~~], or make an amendment to a budgetary fund or the general fund, the governing body shall  
 219 hold a public hearing giving all interested parties [~~shall have been given~~] an opportunity to be  
 220 heard.

221 [~~(b)~~] (2) Notice of [~~such~~] the public hearing described in Subsection (1) shall be  
 222 published at least five days before [~~such~~] the day of the hearing:

223 (a) (i) [~~(A)~~] in at least one issue of a newspaper generally circulated in the county; or

224 [~~(B)~~] (ii) if there is not a newspaper generally circulated in the county, the hearing may  
 225 be published by posting notice in three conspicuous places within the county; and



226 ~~[(ii) as required in Section 45-1-101.]~~

227 ~~[(2) After such public hearing the governing body may amend the general fund budget~~  
228 ~~as it deems appropriate with due consideration to matters discussed at the public hearing and to~~  
229 ~~revised estimates of revenues.]~~

230 (b) on the Utah Public Notice Website created under Section 63F-1-701.

231 Section 6. Section **17-36-32** is amended to read:

232 **17-36-32. Operating and capital budget -- Expenditures.**

233 (1) (a) ~~["Operating and capital budget," for purposes of this section;]~~ As used in this  
234 section, "operating and capital budget" means a plan of financial operation for an enterprise or  
235 other special fund embodying estimates of operating and nonoperating resources and expenses  
236 and other outlays for a fiscal period.

237 (b) Except as otherwise expressly provided, "budget" or "budgets" and the procedures  
238 and controls relating ~~[thereto]~~ to them in other sections of this act are not applicable to the  
239 ~~["operating and capital budgets["]~~ provided in this section.

240 (2) ~~[Before or at]~~ At or before the time that the governing body adopts budgets for the  
241 budgetary funds specified in Section 17-36-8, ~~[it]~~ the governing body shall adopt an  
242 ~~["operating and capital budget["]~~ for the next fiscal period for:

243 (a) each enterprise fund; and [for]

244 (b) any other special nonbudgetary fund for which operating and capital budgets are  
245 prescribed by the uniform system of budgeting, accounting, and reporting.

246 ~~[(3) Operating and capital budgets shall be adopted and administered in the following~~  
247 ~~manner:]~~

248 (3) (a) The governing body shall adopt and administer the operating and capital budget  
249 in accordance with this Subsection (3).

250 ~~[(a) On]~~ (b) At or before the first day of the next to last month of each fiscal period,  
251 the budget officer shall prepare for the next fiscal period on forms provided pursuant to Section  
252 17-36-4, and file with the governing body a tentative operating and capital budget for:

253 (i) each enterprise fund; and [for]

254           (ii) any other special fund that requires an operating and capital budget.

255           ~~[(b)]~~ (c) The tentative operating and capital budget shall be accompanied by a

256 supplementary estimate of all capital projects or planned capital projects;

257           (i) within the next fiscal period; and

258           (ii) within the ~~[next succeeding]~~ fiscal period immediately following the fiscal period

259 described in Subsection (3)(c)(i).

260           ~~[(e) The]~~ (d) (i) Subject to Subsection (3)(d)(ii), the budget officer shall prepare all

261 ~~[the]~~ estimates after review and consultation, if requested, with ~~[the concerned]~~ a department[;

262 ~~but thereafter]~~ proposing a capital project.

263           (ii) After complying with Subsection (3)(d)(i), the budget officer [has authority to] may

264 revise any departmental estimate before it is filed with the governing body.

265           ~~[(d) (i) If within any enterprise utility fund,]~~

266           (e) (i) Except as provided in Subsection (3)(e)(iv), if a governing body includes in a

267 tentative budget, or an amendment to a budget, allocations or transfers between a utility

268 enterprise fund and another fund that are not reasonable allocations of costs between [funds are

269 included in a tentative budget,] the utility enterprise fund and the other fund, the governing

270 body shall:

271           (A) hold a public hearing;

272           (B) prepare a written notice of the date, time, place, and purpose of the hearing [shall

273 be mailed to utility fund customers], in accordance with Subsection (3)(e)(ii); and

274           (C) subject to Subsection (3)(e)(iii), mail the notice to each utility enterprise fund

275 customer at least seven days before the day of the hearing.

276           (ii) The purpose portion of the written notice described in Subsection (3)(e)(i)(B) shall

277 identify:

278           (A) the utility enterprise [utility] fund from which money is being transferred;

279           (B) the amount being transferred; and

280           (C) the fund to which the money is being transferred.

281           (iii) The governing body:

282 (A) may print the written notice required under Subsection (3)(e)(i) on the utility  
283 enterprise fund customer's bill; and

284 (B) shall include the written notice required under Subsection (3)(e)(i) as a separate  
285 notification mailed or transmitted with the utility enterprise fund customer's bill.

286 (iv) The notice and hearing requirements in this Subsection (3)(e) are not required for  
287 an allocation or a transfer included in an original budget or in a subsequent budget amendment  
288 previously approved by the governing body for the current fiscal year.

289 ~~[(e) (i) The]~~ (f) (i) The governing body shall review the tentative operating and capital  
290 budget [shall be reviewed by the governing body] at any regular or special meeting called for  
291 that purpose.

292 ~~(ii) [The]~~ In accordance with Subsection (3)(f)(i), the governing body may make any  
293 changes [it] to the tentative operating and capital budget that the governing body considers  
294 advisable.

295 (iii) Before the close of the fiscal period, the governing body shall adopt an operating  
296 and capital budget for the next fiscal period.

297 ~~[(f)]~~ (g) (i) Upon final adoption by the governing body, the operating and capital  
298 budget shall be in effect for the budget period subject to amendment.

299 (ii) The governing body shall:

300 ~~[(ii) A]~~ (A) certify a copy of the operating and capital budget for each fund [shall be  
301 certified by] with the budget officer; and [made]

302 (B) make a copy available to the public during business hours in the offices of the  
303 county auditor.

304 ~~(iii) [A]~~ The governing body shall file a copy of the operating and capital budget [shall  
305 be filed] with the state auditor within 30 days after [its adoption] the day on which the  
306 operating and capital budget is adopted.

307 (iv) The governing body may during the budget period amend the operating and capital  
308 budget of an enterprise or other special fund by resolution.

309 (v) A copy of the operating and capital budget as amended shall be filed with the state

310 auditor.

311 (4) Any expenditure from an operating and capital budget shall conform to the  
312 requirements for budgets specified by Sections 17-36-20, 17-36-22, 17-36-23, and 17-36-24.

313 Section 7. **Repealer.**

314 This bill repeals:

315 Section **17-36-25, Budget appropriation increase.**