

LOCAL DISTRICT MODIFICATIONS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jefferson Moss

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions related to local districts.

Highlighted Provisions:

This bill:

► requires a local district to make the local district's tentative budget, and any changes to the tentative budget, available to the public at least a week before adopting a final budget:

- at the local district's principal office during regular business hours; and
- on the local district's website, if the local district has a website, or the state auditor's website; and

► makes conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17B-1-608, as renumbered and amended by Laws of Utah 2007, Chapter 329

67-3-1, as last amended by Laws of Utah 2018, Chapters 200 and 256



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

29 Section 1. Section **17B-1-608** is amended to read:

30 **17B-1-608. Tentative budget and data -- Public records.**

31 (1) The tentative budget adopted by the board of trustees and all supporting schedules
32 and data are public records~~[, and are available for public inspection for a period of at least~~
33 ~~seven days prior to the adoption of a final budget].~~

34 (2) At least seven days before adopting a tentative budget, or before making any
35 changes to a tentative budget in a public meeting, the local district shall:

36 (a) make the tentative budget, or changes to the tentative budget, available for public
37 inspection at the local district's principal place of business during regular business hours; and

38 (b) (i) publish the tentative budget, or changes to the tentative budget, on the local
39 district's website, if the local district has a website; or

40 (ii) submit the tentative budget, or changes to the tentative budget, to the state auditor
41 in a format approved by the state auditor, for posting on the state auditor's website.

42 Section 2. Section **67-3-1** is amended to read:

43 **67-3-1. Functions and duties.**

44 (1) (a) The state auditor is the auditor of public accounts and is independent of any
45 executive or administrative officers of the state.

46 (b) The state auditor is not limited in the selection of personnel or in the determination
47 of the reasonable and necessary expenses of the state auditor's office.

48 (2) The state auditor shall examine and certify annually in respect to each fiscal year,
49 financial statements showing:

50 (a) the condition of the state's finances;

51 (b) the revenues received or accrued;

52 (c) expenditures paid or accrued;

53 (d) the amount of unexpended or unencumbered balances of the appropriations to the
54 agencies, departments, divisions, commissions, and institutions; and

55 (e) the cash balances of the funds in the custody of the state treasurer.

56 (3) (a) The state auditor shall:

57 (i) audit each permanent fund, each special fund, the General Fund, and the accounts of
58 any department of state government or any independent agency or public corporation as the law

59 requires, as the auditor determines is necessary, or upon request of the governor or the
60 Legislature;

61 (ii) perform the audits in accordance with generally accepted auditing standards and
62 other auditing procedures as promulgated by recognized authoritative bodies;

63 (iii) as the auditor determines is necessary, conduct the audits to determine:

64 (A) honesty and integrity in fiscal affairs;

65 (B) accuracy and reliability of financial statements;

66 (C) effectiveness and adequacy of financial controls; and

67 (D) compliance with the law.

68 (b) If any state entity receives federal funding, the state auditor shall ensure that the
69 audit is performed in accordance with federal audit requirements.

70 (c) (i) The costs of the federal compliance portion of the audit may be paid from an
71 appropriation to the state auditor from the General Fund.

72 (ii) If an appropriation is not provided, or if the federal government does not
73 specifically provide for payment of audit costs, the costs of the federal compliance portions of
74 the audit shall be allocated on the basis of the percentage that each state entity's federal funding
75 bears to the total federal funds received by the state.

76 (iii) The allocation shall be adjusted to reflect any reduced audit time required to audit
77 funds passed through the state to local governments and to reflect any reduction in audit time
78 obtained through the use of internal auditors working under the direction of the state auditor.

79 (4) (a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to
80 financial audits, and as the auditor determines is necessary, conduct performance and special
81 purpose audits, examinations, and reviews of any entity that receives public funds, including a
82 determination of any or all of the following:

83 (i) the honesty and integrity of all [~~its~~] the entity's fiscal affairs;

84 (ii) whether or not [~~its~~] the entity's administrators have faithfully complied with
85 legislative intent;

86 (iii) whether or not [~~its~~] the entity's operations have been conducted in an efficient,
87 effective, and cost-efficient manner;

88 (iv) whether or not [~~its~~] the entity's programs have been effective in accomplishing the
89 intended objectives; and

90 (v) whether or not [its] the entity's management, control, and information systems are
91 adequate, effective, and secure.

92 (b) The auditor may not conduct performance and special purpose audits,
93 examinations, and reviews of any entity that receives public funds if the entity:

94 (i) has an elected auditor; and

95 (ii) has, within the entity's last budget year, had [its] the entity's financial statements or
96 performance formally reviewed by another outside auditor.

97 (5) The state auditor shall administer any oath or affirmation necessary to the
98 performance of the duties of the auditor's office, and may subpoena witnesses and documents,
99 whether electronic or otherwise, and examine into any matter that the auditor considers
100 necessary.

101 (6) The state auditor may require all persons who have had the disposition or
102 management of any property of this state or [its] the state's political subdivisions to submit
103 statements regarding it at the time and in the form that the auditor requires.

104 (7) The state auditor shall:

105 (a) except where otherwise provided by law, institute suits in Salt Lake County in
106 relation to the assessment, collection, and payment of its revenues against:

107 (i) persons who by any means have become entrusted with public money or property
108 and have failed to pay over or deliver the money or property; and

109 (ii) all debtors of the state;

110 (b) collect and pay into the state treasury all fees received by the state auditor;

111 (c) perform the duties of a member of all boards of which the state auditor is a member
112 by the constitution or laws of the state, and any other duties that are prescribed by the
113 constitution and by law;

114 (d) stop the payment of the salary of any state official or state employee who:

115 (i) refuses to settle accounts or provide required statements about the custody and
116 disposition of public funds or other state property;

117 (ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling
118 board or department head with respect to the manner of keeping prescribed accounts or funds;
119 or

120 (iii) fails to correct any delinquencies, improper procedures, and errors brought to the

121 official's or employee's attention;

122 (e) establish accounting systems, methods, and forms for public accounts in all taxing
123 or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;

124 (f) superintend the contractual auditing of all state accounts;

125 (g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of
126 property taxes from a state or local taxing or fee-assessing unit, if necessary, to ensure that
127 officials and employees in those taxing units comply with state laws and procedures in the
128 budgeting, expenditures, and financial reporting of public funds;

129 (h) subject to Subsection (9), withhold the disbursement of tax money from any county,
130 if necessary, to ensure that officials and employees in the county comply with Section
131 [59-2-303.1](#); and

132 (i) withhold state allocated funds or the disbursement of property taxes from a local
133 government entity or a limited purpose entity, as those terms are defined in Section [67-1a-15](#) if
134 the state auditor finds the withholding necessary to ensure that the entity registers and
135 maintains the entity's registration with the lieutenant governor, in accordance with Section
136 [67-1a-15](#).

137 (8) (a) Except as otherwise provided by law, the state auditor may not withhold funds
138 under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received formal
139 written notice of noncompliance from the auditor and has been given 60 days to make the
140 specified corrections.

141 (b) If, after receiving notice under Subsection (8)(a), a state or independent local
142 fee-assessing unit that exclusively assesses fees has not made corrections to comply with state
143 laws and procedures in the budgeting, expenditures, and financial reporting of public funds, the
144 state auditor:

145 (i) shall provide a recommended timeline for corrective actions; ~~and~~

146 (ii) may prohibit the state or local fee-assessing unit from accessing money held by the
147 state; and

148 (iii) may prohibit a state or local fee-assessing unit from accessing money held in an
149 account of a financial institution by filing an action in district court requesting an order of the
150 court to prohibit a financial institution from providing the fee-assessing unit access to an
151 account.

152 (c) The state auditor shall remove a limitation on accessing funds under Subsection
153 (8)(b) upon compliance with state laws and procedures in the budgeting, expenditures, and
154 financial reporting of public funds.

155 (d) If a local taxing or fee-assessing unit has not adopted a budget in compliance with
156 state law, the state auditor:

157 (i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to
158 comply;

159 (ii) may prohibit the taxing or fee-assessing unit from accessing money held by the
160 state; and

161 (iii) may prohibit a taxing or fee-assessing unit from accessing money held in an
162 account of a financial institution by:

163 (A) contacting the taxing or fee-assessing unit's financial institution and requesting that
164 the institution prohibit access to the account; or

165 (B) filing an action in district court requesting an order of the court to prohibit a
166 financial institution from providing the taxing or fee-assessing unit access to an account.

167 (e) If the local taxing or fee-assessing unit adopts a budget in compliance with state
168 law, the state auditor shall eliminate a limitation on accessing funds described in Subsection
169 (8)(d).

170 (9) The state auditor may not withhold funds under Subsection (7)(h) until a county has
171 received formal written notice of noncompliance from the auditor and has been given 60 days
172 to make the specified corrections.

173 (10) (a) The state auditor may not withhold funds under Subsection (7)(i) until the state
174 auditor receives a notice of non-registration, as that term is defined in Section [67-1a-15](#).

175 (b) If the state auditor receives a notice of non-registration, the state auditor may
176 prohibit the local government entity or limited purpose entity, as those terms are defined in
177 Section [67-1a-15](#), from accessing:

178 (i) money held by the state; and

179 (ii) money held in an account of a financial institution by:

180 (A) contacting the entity's financial institution and requesting that the institution
181 prohibit access to the account; or

182 (B) filing an action in district court requesting an order of the court to prohibit a

183 financial institution from providing the entity access to an account.

184 (c) The state auditor shall remove the prohibition on accessing funds described in
185 Subsection (10)(b) if the state auditor received a notice of registration, as that term is defined in
186 Section 67-1a-15, from the lieutenant governor.

187 (11) Notwithstanding Subsection (7)(g), (7)(h), (7)(i), (8)(b), (8)(d), or (10)(b), the
188 state auditor:

189 (a) shall authorize a disbursement by a local government entity or limited purpose
190 entity, as those terms are defined in Section 67-1a-15, or a state or local taxing or fee-assessing
191 unit if the disbursement is necessary to:

192 (i) avoid a major disruption in the operations of the local government entity, limited
193 purpose entity, or state or local taxing or fee-assessing unit; or

194 (ii) meet debt service obligations; and

195 (b) may authorize a disbursement by a local government entity, limited purpose entity,
196 or state or local taxing or fee-assessing unit as the state auditor determines is appropriate.

197 (12) (a) The state auditor may seek relief under the Utah Rules of Civil Procedure to
198 take temporary custody of public funds if an action is necessary to protect public funds from
199 being improperly diverted from their intended public purpose.

200 (b) If the state auditor seeks relief under Subsection (12)(a):

201 (i) the state auditor is not required to exhaust the procedures in Subsection (7) or (8);
202 and

203 (ii) the state treasurer may hold the public funds in accordance with Section 67-4-1 if a
204 court orders the public funds to be protected from improper diversion from their public
205 purpose.

206 (13) The state auditor shall:

207 (a) establish audit guidelines and procedures for audits of local mental health and
208 substance abuse authorities and their contract providers, conducted pursuant to Title 17,
209 Chapter 43, Part 2, Local Substance Abuse Authorities, Title 17, Chapter 43, Part 3, Local
210 Mental Health Authorities, Title 51, Chapter 2a, Accounting Reports from Political
211 Subdivisions, Interlocal Organizations, and Other Local Entities Act, and Title 62A, Chapter
212 15, Substance Abuse and Mental Health Act; and

213 (b) ensure that those guidelines and procedures provide assurances to the state that:

214 (i) state and federal funds appropriated to local mental health authorities are used for
215 mental health purposes;

216 (ii) a private provider under an annual or otherwise ongoing contract to provide
217 comprehensive mental health programs or services for a local mental health authority is in
218 compliance with state and local contract requirements, and state and federal law;

219 (iii) state and federal funds appropriated to local substance abuse authorities are used
220 for substance abuse programs and services; and

221 (iv) a private provider under an annual or otherwise ongoing contract to provide
222 comprehensive substance abuse programs or services for a local substance abuse authority is in
223 compliance with state and local contract requirements, and state and federal law.

224 (14) The state auditor may, in accordance with the auditor's responsibilities for political
225 subdivisions of the state as provided in Title 51, Chapter 2a, Accounting Reports from Political
226 Subdivisions, Interlocal Organizations, and Other Local Entities Act, initiate audits or
227 investigations of any political subdivision that are necessary to determine honesty and integrity
228 in fiscal affairs, accuracy and reliability of financial statements, effectiveness, and adequacy of
229 financial controls and compliance with the law.

230 (15) (a) The state auditor may not audit work that the state auditor performed before
231 becoming state auditor.

232 (b) If the state auditor has previously been a responsible official in state government
233 whose work has not yet been audited, the Legislature shall:

234 (i) designate how that work shall be audited; and

235 (ii) provide additional funding for those audits, if necessary.

236 (16) The state auditor shall:

237 (a) with the assistance, advice, and recommendations of an advisory committee
238 appointed by the state auditor from among local district boards of trustees, officers, and
239 employees and special service district boards, officers, and employees:

240 (i) prepare a Uniform Accounting Manual for Local Districts that:

241 (A) prescribes a uniform system of accounting and uniform budgeting and reporting
242 procedures for local districts under Title 17B, Limited Purpose Local Government Entities -
243 Local Districts, and special service districts under Title 17D, Chapter 1, Special Service
244 District Act;

- 245 (B) conforms with generally accepted accounting principles; and
- 246 (C) prescribes reasonable exceptions and modifications for smaller districts to the
247 uniform system of accounting, budgeting, and reporting;
- 248 (ii) maintain the manual under this Subsection (16)(a) so that it continues to reflect
249 generally accepted accounting principles;
- 250 (iii) conduct a continuing review and modification of procedures in order to improve
251 them;
- 252 (iv) prepare and supply each district with suitable budget and reporting forms; and
- 253 (v) (A) prepare instructional materials, conduct training programs, and render other
254 services considered necessary to assist local districts and special service districts in
255 implementing the uniform accounting, budgeting, and reporting procedures; and
- 256 (B) ensure that any training described in Subsection (16)(a)(v)(A) complies with Title
257 63G, Chapter 22, State Training and Certification Requirements; and
- 258 (b) continually analyze and evaluate the accounting, budgeting, and reporting practices
259 and experiences of specific local districts and special service districts selected by the state
260 auditor and make the information available to all districts.
- 261 (17) (a) The following records in the custody or control of the state auditor are
262 protected records under Title 63G, Chapter 2, Government Records Access and Management
263 Act:
- 264 (i) records that would disclose information relating to allegations of personal
265 misconduct, gross mismanagement, or illegal activity of a past or present governmental
266 employee if the information or allegation cannot be corroborated by the state auditor through
267 other documents or evidence, and the records relating to the allegation are not relied upon by
268 the state auditor in preparing a final audit report;
- 269 (ii) records and audit workpapers to the extent they would disclose the identity of a
270 person who during the course of an audit, communicated the existence of any waste of public
271 funds, property, or manpower, or a violation or suspected violation of a law, rule, or regulation
272 adopted under the laws of this state, a political subdivision of the state, or any recognized entity
273 of the United States, if the information was disclosed on the condition that the identity of the
274 person be protected;
- 275 (iii) before an audit is completed and the final audit report is released, records or drafts

276 circulated to a person who is not an employee or head of a governmental entity for their
277 response or information;

278 (iv) records that would disclose an outline or part of any audit survey plans or audit
279 program; and

280 (v) requests for audits, if disclosure would risk circumvention of an audit.

281 (b) The provisions of Subsections (17)(a)(i), (ii), and (iii) do not prohibit the disclosure
282 of records or information that relate to a violation of the law by a governmental entity or
283 employee to a government prosecutor or peace officer.

284 (c) The provisions of this Subsection (17) do not limit the authority otherwise given to
285 the state auditor to classify a document as public, private, controlled, or protected under Title
286 63G, Chapter 2, Government Records Access and Management Act.

287 (d) (i) As used in this Subsection (17)(d), "record dispute" means a dispute between the
288 state auditor and the subject of an audit performed by the state auditor as to whether the state
289 auditor may release a record, as defined in Section 63G-2-103, to the public that the state
290 auditor gained access to in the course of the state auditor's audit but which the subject of the
291 audit claims is not subject to disclosure under Title 63G, Chapter 2, Government Records
292 Access and Management Act.

293 (ii) The state auditor may submit a record dispute to the State Records Committee,
294 created in Section 63G-2-501, for a determination of whether the state auditor may, in
295 conjunction with the state auditor's release of an audit report, release to the public the record
296 that is the subject of the record dispute.

297 (iii) The state auditor or the subject of the audit may seek judicial review of a State
298 Records Committee determination under Subsection (17)(d)(ii), as provided in Section
299 63G-2-404.

300 (18) If the state auditor conducts an audit of an entity that the state auditor has
301 previously audited and finds that the entity has not implemented a recommendation made by
302 the state auditor in a previous audit, the state auditor shall notify the Legislative Management
303 Committee through its audit subcommittee that the entity has not implemented that
304 recommendation.

305 (19) The state auditor shall post the tentative budget of a local district, or any changes
306 to the tentative budget, to the state auditor's website if the local district submits the tentative

307 budget or changes to the tentative budget in accordance with Subsection [17B-1-608\(2\)](#).