

1 **RESTRICTED ACCOUNTS AMENDMENTS**

2 2008 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Ron Bigelow**

5 Senate Sponsor: Lyle W. Hillyard

7 **LONG TITLE**

8 **General Description:**

9 This bill amends the interest provisions of certain restricted accounts.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ requires interest earnings in certain restricted accounts to be deposited into the
13 General Fund rather than into the restricted account.

14 **Monies Appropriated in this Bill:**

15 None

16 **Other Special Clauses:**

17 This bill takes effect on July 1, 2008.

18 **Utah Code Sections Affected:**

19 AMENDS:

20 **41-22-19.5**, as enacted by Laws of Utah 2007, Chapter 299

21 **53-2-403**, as enacted by Laws of Utah 2007, Chapter 328

22 **53-7-404 (Effective 07/01/08)**, as enacted by Laws of Utah 2007, Chapter 362

23 **53C-3-203**, as enacted by Laws of Utah 2007, Chapter 303

24 **61-2-28**, as enacted by Laws of Utah 2007, Chapter 325

25 **63-38f-2303**, as enacted by Laws of Utah 2007, Chapter 327

26 **63-63a-10**, as enacted by Laws of Utah 2007, Chapter 330

27 **63-97a-201**, as enacted by Laws of Utah 2007, Chapter 384

28 **63-97a-202**, as enacted by Laws of Utah 2007, Chapter 384

29 **67-5-25**, as enacted by Laws of Utah 2007, Chapter 392

30

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

32 Section 1. Section **41-22-19.5** is amended to read:

33 **41-22-19.5. Off-highway Access and Education Restricted Account -- Creation --**
34 **Funding -- Distribution of funds by the Board of Parks and Recreation.**

35 (1) There is created in the General Fund a restricted account known as the Off-highway
36 Access and Education Restricted Account.

37 (2) The account shall be funded by:

38 (a) contributions deposited into the Off-highway Access and Education Restricted
39 Account in accordance with Section 41-1a-230.6;

40 (b) private contributions; and

41 (c) donations or grants from public or private entities[; ~~or~~].

42 [~~(d) interest and earnings on fund monies.~~]

43 (3) Funds in the account are nonlapsing.

44 (4) The Legislature shall appropriate money in the account to the board.

45 (5) (a) The state treasurer shall invest monies in the account according to Title 51,
46 Chapter 7, State Money Management Act.

47 (b) The Division of Finance shall deposit interest or other earnings derived from
48 investment of account monies into the General Fund.

49 [~~(5)~~] (6) The board may expend up to 10% of the monies appropriated under
50 Subsection (4) to:

51 (a) administer account distributions in accordance with Subsections [~~(6)~~] (7) through
52 [~~(9)~~] (10); and

53 (b) administer off-highway vehicle provisions under this chapter.

54 [~~(6)~~] (7) The board shall distribute the funds to a charitable organization that:

55 (a) qualifies as being tax exempt under Section 501(c)(3) of the Internal Revenue Code;

56 (b) has at least one full-time employee; and

57 (c) has as a primary part of its mission to:

58 (i) protect access to public lands by motor vehicle and off-highway vehicle operators;

59 and

60 (ii) educate the public about appropriate off-highway vehicle use.

61 [~~7~~] (8) The board may only consider proposals that are:

62 (a) proposed by a charitable organization under Subsection [~~6~~] (7); and

63 (b) designed to:

64 (i) protect access to public lands by motor vehicle and off-highway vehicle operators;

65 and

66 (ii) educate the public about appropriate off-highway vehicle use.

67 [~~8~~] (9) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking
68 Act, the board shall make rules providing procedures for an organization to apply to receive
69 funds under this section.

70 [~~9~~] (10) The board may not:

71 (a) require matching funds from a charitable organization as a condition of receiving
72 funds; or

73 (b) prohibit the use of funds to cover litigation expenses incurred in protecting access to
74 public lands by motor vehicle and off-highway vehicle operators.

75 Section 2. Section **53-2-403** is amended to read:

76 **53-2-403. State Disaster Recovery Restricted Account.**

77 (1) (a) There is created a restricted account in the General Fund known as the "State
78 Disaster Recovery Restricted Account."

79 (b) The disaster recovery fund shall consist of:

80 (i) monies deposited into the disaster recovery fund in accordance with Section
81 53-2-102.5;

82 (ii) monies deposited into the disaster recovery fund in accordance with Section
83 63-38-2.7;

84 (iii) monies appropriated to the disaster recovery fund by the Legislature; and

85 (iv) any other public or private monies received by the division that are:

86 (A) given to the division for purposes consistent with this section; and

87 (B) deposited into the disaster recovery fund at the request of:

88 (I) the division; or

89 (II) the person giving the monies~~[-and]~~.

90 ~~[(v) interest or other earnings derived from the disaster recovery fund.]~~

91 (c) The Division of Finance shall deposit interest or other earnings derived from
92 investment of fund monies into the General Fund.

93 ~~[(e)]~~ (d) Monies in the disaster recovery fund may only be used as follows:

94 (i) without the monies being appropriated by the Legislature, in any fiscal year the
95 division may use \$100,000 to fund, in accordance with Section 53-2-404, costs to the state of
96 emergency disaster services in response to a declared disaster; and

97 (ii) subject to being appropriated by the Legislature, monies not described in Subsection
98 (1)~~[(e)]~~(d)(i) may be used to fund costs to the state directly related to a declared disaster that
99 are not costs related to:

100 (A) emergency disaster services;

101 (B) emergency preparedness; or

102 (C) notwithstanding whether or not a county participates in the Wildland Fire
103 Suppression Fund created in Section ~~[65A-8-6.1]~~ 65A-8-204, any fire suppression or
104 presuppression costs that may be paid for from the Wildland Fire Suppression Fund if the
105 county participates in the Wildland Fire Suppression Fund.

106 (2) The state treasurer shall invest monies in the disaster recovery fund according to
107 Title 51, Chapter 7, State Money Management Act~~[-except that the state treasurer shall deposit~~
108 ~~all interest or other earnings derived from the disaster recovery fund into the disaster recovery~~
109 ~~fund]~~.

110 (3) (a) Except as provided in Subsection (1), the monies in the disaster recovery fund
111 may not be diverted, appropriated, or used for a purpose that is not listed in this section.

112 (b) Notwithstanding Section 63-38-3.6, the Legislature may not appropriate monies
113 from the disaster recovery fund to eliminate or otherwise reduce an operating deficit if the

114 monies appropriated from the disaster recovery fund are used for a purpose other than one
115 listed in this section.

116 (c) The Legislature may not amend the purposes for which monies in the disaster
117 recovery fund may be used except by the affirmative vote of two-thirds of all the members
118 elected to each house.

119 Section 3. Section **53-7-404 (Effective 07/01/08)** is amended to read:

120 **53-7-404 (Effective 07/01/08). Certification and product change -- Restricted**
121 **account created.**

122 (1) Each manufacturer shall submit to the state fire marshal a written certification
123 attesting that:

124 (a) each cigarette listed in the certification has been tested in accordance with Section
125 53-7-403; and

126 (b) each cigarette listed in the certification meets the performance standard set forth in
127 Subsection 53-7-403(2)(c).

128 (2) Each cigarette listed in the certification shall be described with the following
129 information:

130 (a) brand, or trade name on the package;

131 (b) style, such as light or ultra light;

132 (c) length in millimeters;

133 (d) circumference in millimeters;

134 (e) flavor, such as menthol or chocolate, if applicable;

135 (f) filter or nonfilter;

136 (g) package description, such as soft pack or box;

137 (h) marking approved in accordance with Section 53-7-405;

138 (i) the name, address, and telephone number of the laboratory, if different than the
139 manufacturer that conducted the test; and

140 (j) the date that the testing occurred.

141 (3) The certifications shall be made available to the attorney general for purposes

142 consistent with this part and the State Tax Commission for the purposes of ensuring compliance
143 with this section.

144 (4) Each cigarette certified under this section shall be recertified every three years.

145 (5) For each cigarette listed in a certification, a manufacturer shall pay to the state fire
146 marshal a \$250 fee. The state fire marshal is authorized to annually adjust this fee to ensure it
147 defrays the actual costs of the processing, testing, enforcement, and oversight activities required
148 by this part.

149 (6) (a) Beginning July 1, 2008, there is created a restricted account within the General
150 Fund called the "Reduced Cigarette Ignition Propensity and Firefighter Protection Act
151 Enforcement Account."

152 (b) The account created in Subsection (6)(a) shall consist of~~[-(i)]~~ all certification fees
153 submitted by manufacturers~~[-, and (ii) interest on account monies]~~.

154 (c) (i) The state treasurer shall invest monies in the account according to Title 51,
155 Chapter 7, State Money Management Act.

156 (ii) The Division of Finance shall deposit interest or other earnings derived from
157 investment of account monies into the General Fund.

158 (d) Upon appropriations from the Legislature, monies from the account created in
159 Subsection (6)(a) shall be used by the state fire marshal solely to support processing, testing,
160 enforcement, and oversight activities under this part.

161 (7) (a) If a manufacturer has certified a cigarette pursuant to this section, and thereafter
162 makes any change to the certified cigarette that is likely to alter its compliance with the reduced
163 cigarette ignition propensity standards required by this part, that cigarette shall not be sold or
164 offered for sale in this state until the manufacturer:

165 (i) retests the cigarette in accordance with the testing standards set forth in Section
166 53-7-403; and

167 (ii) maintains records of that retesting as required by Section 53-7-403.

168 (b) Any altered cigarette which does not meet the performance standard set forth in
169 Section 53-7-403 may not be sold in this state.

170 Section 4. Section 53C-3-203 is amended to read:

171 **53C-3-203. Land Exchange Distribution Account.**

172 (1) As used in this section, "account" means the Land Exchange Distribution Account
173 created in Subsection (2)(a).

174 (2) (a) There is created within the General Fund a restricted account known as the Land
175 Exchange Distribution Account.

176 (b) The account shall consist of all revenue deposited in the account as required by
177 Subsections 53C-3-202(2)(a)(ii) and (2)(b)(ii).

178 (3) (a) The state treasurer shall invest monies in the account according to Title 51,
179 Chapter 7, State Money Management Act.

180 (b) The Division of Finance shall deposit interest or other earnings derived from
181 investment of account monies into the General Fund.

182 [~~3~~] (4) For fiscal years beginning on or after fiscal year 2007-08, because the revenue
183 is not derived from taxes, the Legislature shall annually appropriate from the account:

184 (a) 55% of all deposits made to the account to counties in amounts proportionate to the
185 amounts of mineral revenue generated from the acquired land, exchanged land, acquired mineral
186 interests, or exchanged mineral interests located in each county, to be used to mitigate the
187 impacts caused by mineral development;

188 (b) 25% of all deposits made to the account to counties in amounts proportionate to the
189 total surface and mineral acreage within each county that was conveyed to the United States
190 under the agreement or an exchange, to be used to mitigate the loss of mineral development
191 opportunities resulting from the agreement or exchange;

192 (c) 1.68% of all deposits made to the account to the State Board of Education, to be
193 used for education research and experimentation in the use of staff and facilities designed to
194 improve the quality of education in Utah;

195 (d) 1.66% of all deposits made to the account to the Geological Survey, to be used for
196 natural resources development in the state;

197 (e) 1.66% of all deposits made to the account to the Water Research Laboratory at

198 Utah State University, to be used for water development in the state; and

199 (f) 7.5% of all deposits made to the account to the Constitutional Defense Restricted
200 Account created in Section 63C-4-103.

201 [~~(4)~~] (5) For fiscal years 2007-08 and 2008-09, the Legislature shall annually
202 appropriate from the account 7.5% of all deposits made to the account to the Geological
203 Survey, to be used for test wells and other hydrologic studies in the West Desert.

204 [~~(5)~~] (6) For fiscal years beginning on or after fiscal year 2009-10, the Legislature shall
205 annually appropriate from the account 7.5% of all deposits made to the account to the
206 Permanent Community Impact Fund created in Section 9-4-303, to be used for grants to
207 political subdivisions of the state to mitigate the impacts resulting from the development or use
208 of school and institutional trust lands.

209 Section 5. Section **61-2-28** is amended to read:

210 **61-2-28. Utah Housing Opportunity Restricted Account.**

211 (1) There is created in the General Fund a restricted account known as the "Utah
212 Housing Opportunity Restricted Account."

213 (2) The account shall be funded by:

214 (a) contributions deposited into the Utah Housing Opportunity Restricted Account in
215 accordance with Section 41-1a-422;

216 (b) private contributions; and

217 (c) donations or grants from public or private entities[; ~~and~~].

218 [~~(d) interest and earnings on fund monies.~~]

219 (3) Funds in the account are nonlapsing.

220 (4) (a) The state treasurer shall invest monies in the account according to Title 51,
221 Chapter 7, State Money Management Act.

222 (b) The Division of Finance shall deposit interest or other earnings derived from
223 investment of account monies into the General Fund.

224 [~~(4)~~] (5) The Legislature shall appropriate money in the account to the division.

225 [~~(5)~~] (6) The division shall distribute the funds to one or more charitable organizations

226 that:

227 (a) qualify as being tax exempt under Section 501(c)(3), Internal Revenue Code; and

228 (b) have as a primary part of their mission to provide support to organizations that
229 create affordable housing for those in severe need.

230 ~~[(6)]~~ (7) The division may only consider proposals that are:

231 (a) proposed by an organization under Subsection ~~[(5)]~~ (6); and

232 (b) designed to provide support to organizations that create affordable housing for
233 those in severe need.

234 ~~[(7)]~~ (8) (a) An organization described in Subsection ~~[(5)]~~ (6) may apply to the division
235 to receive a distribution in accordance with Subsection ~~[(5)]~~ (6).

236 (b) An organization that receives a distribution from the division in accordance with
237 Subsection ~~[(5)]~~ (6) shall expend the distribution only to provide support to organizations that
238 create affordable housing for those in severe need.

239 ~~[(8)]~~ (9) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking
240 Act, the division shall make rules providing procedures for an organization to apply to receive
241 funds under this section.

242 Section 6. Section **63-38f-2303** is amended to read:

243 **63-38f-2303. Rural Broadband Service Fund created -- Interest -- Costs --**
244 **Deposits to the General Fund.**

245 (1) There is created within the General Fund a restricted account known as the Rural
246 Broadband Service Fund.

247 (2) The fund shall be funded by~~[(a)]~~ monies appropriated to the fund by the
248 Legislature~~[(b)]~~ and ~~(b) the interest described in Subsection (3)].~~

249 ~~[(3)(a) The fund shall earn interest.]~~

250 ~~[(b) The interest described in Subsection (3)(a) shall be deposited into the fund.]~~

251 (3) (a) The state treasurer shall invest monies in the account according to Title 51,
252 Chapter 7, State Money Management Act.

253 (b) The Division of Finance shall deposit interest or other earnings derived from

254 investment of account monies into the General Fund.

255 (4) Upon appropriation by the Legislature, the monies [~~and interest~~] deposited into the
256 fund in accordance with this section may be expended:

257 (a) by the director with the advice of the board to award grants to providers as
258 provided in this part; and

259 (b) to cover the costs of administering this part in an amount during any fiscal year not
260 to exceed 2% of the fund balance at the start of any fiscal year.

261 (5) (a) Except as provided in Subsection (5)(b), the monies [~~and interest~~] deposited into
262 the fund in accordance with this section [~~shall be~~] are nonlapsing.

263 (b) Notwithstanding Subsection (5)(a), the Division of Finance shall deposit any monies
264 [~~and interest~~] in the fund into the General Fund on July 1, 2010.

265 Section 7. Section **63-63a-10** is amended to read:

266 **63-63a-10. Law Enforcement Operations Account -- Share of surcharge -- Uses.**

267 (1) As used in this section:

268 (a) "Account" means the Law Enforcement Operations Account.

269 (b) "Commission" means the Commission on Criminal and Juvenile Justice created in
270 Section 63-25a-101.

271 (c) "Law enforcement agency" means a state or local law enforcement agency.

272 (d) "Other appropriate agency" means a state or local government agency, or a nonprofit
273 organization, that works to prevent illegal drug activity and enforce laws regarding illegal drug
274 activity and related criminal activity by:

275 (i) programs, including education, prevention, treatment, and research programs; and

276 (ii) enforcement of laws regarding illegal drugs.

277 (2) There is created a restricted account within the General Fund known as the Law
278 Enforcement Operations Account.

279 (3) (a) The Division of Finance shall allocate the balance of the collected surcharge
280 under Section 63-63a-1 that is not allocated under Title 63, Chapter 63a, Crime Victim
281 Reparation Trust, Public Safety Support Funds, Substance Abuse Prevention Account, and

282 Services for Victims of Domestic Violence Account, to the account, to be appropriated by the
283 Legislature.

284 (b) Money in the account shall be appropriated to the commission for implementing law
285 enforcement operations and programs related to reducing illegal drug activity and related
286 criminal activity as listed in Subsection (5).

287 (c) The state treasurer shall invest monies in the account according to Title 51, Chapter
288 7, State Money Management Act.

289 (d) The Division of Finance shall deposit interest or other earnings derived from
290 investment of account monies into the General Fund.

291 (4) (a) The commission shall allocate grants of funds from the account for the purposes
292 under Subsection (5) to state, local, or multijurisdictional law enforcement agencies and other
293 appropriate agencies.

294 (b) The grants shall be made by an application process established by the commission in
295 accordance with Subsection (6).

296 (5) (a) The first priority of the commission is to annually allocate not more than
297 \$2,500,000, depending upon funding available from other sources, to directly fund the
298 operational costs of state and local law enforcement agencies' drug or crime task forces,
299 including multijurisdictional task forces.

300 (b) The second priority of the commission is to allocate grants for specified law
301 enforcement agency functions and other agency functions as the commission finds appropriate
302 to more effectively reduce illegal drug activity and related criminal activity, including providing
303 education, prevention, treatment, and research programs.

304 (6) (a) In allocating grants and determining the amount of the grants, the commission
305 shall consider:

306 (i) the demonstrated ability of the agency to appropriately use the grant to implement
307 the proposed functions and how this function or task force will add to the law enforcement
308 agency's current efforts to reduce illegal drug activity and related criminal activity; and

309 (ii) the agency's cooperation with other state and local agencies and task forces.

310 (b) Agencies qualify for a grant only if they demonstrate compliance with all reporting
311 and policy requirements applicable under this section and under Title 63, Chapter 25a, Criminal
312 Justice and Substance Abuse, in order to qualify as a potential grant recipient.

313 (7) Recipient agencies may only use grant monies after approval or appropriation by the
314 agency's governing body, and a determination that the grant monies are nonlapsing.

315 (8) A recipient law enforcement agency may use funds granted under this section only
316 for the purposes stated by the commission in the grant.

317 (9) For each fiscal year, any law enforcement agency that receives a grant from the
318 commission under this section shall prepare, and file with the commission and the state auditor,
319 a report in a form specified by the commission. The report shall include the following regarding
320 each grant:

321 (a) the agency's name;

322 (b) the amount of the grant;

323 (c) the date of the grant;

324 (d) how the grant has been used; and

325 (e) a statement signed by both the agency's or political subdivision's executive officer or
326 designee and by the agency's legal counsel, that all grant funds were used for law enforcement
327 operations and programs approved by the commission and that relate to reducing illegal drug
328 activity and related criminal activity, as specified in the grant.

329 (10) The commission shall report in writing to the legislative Law Enforcement and
330 Criminal Justice Interim Committee annually regarding the grants allocated under this section,
331 including the amounts and uses of the grants.

332 Section 8. Section **63-97a-201** is amended to read:

333 **63-97a-201. Creation of Infrastructure and Economic Diversification Investment**
334 **Account.**

335 (1) (a) There is created a restricted account within the General Fund known as the
336 "Infrastructure and Economic Diversification Investment Account."

337 (b) The Infrastructure and Economic Diversification Investment Account shall consist

338 of:

339 (i) all monies credited to the account under Section 63-97a-202;

340 (ii) appropriations from the Legislature; and

341 (iii) grants from private foundations[; ~~and~~].

342 [~~(iv) interest and investment earnings on account monies.~~]

343 [~~(2) (a) The Infrastructure and Economic Diversification Investment Account shall earn~~
344 ~~interest.~~]

345 [~~(b) All interest earned on monies in the Infrastructure and Economic Diversification~~
346 ~~Investment Account shall be deposited into the Infrastructure and Economic Diversification~~
347 ~~Investment Account.~~]

348 (2) (a) The state treasurer shall invest monies in the account according to Title 51,
349 Chapter 7, State Money Management Act.

350 (b) The Division of Finance shall deposit interest or other earnings derived from
351 investment of account monies into the General Fund.

352 (3) The Legislature may appropriate monies from the Infrastructure and Economic
353 Diversification Investment Account for infrastructure and economic diversification investment
354 projects.

355 Section 9. Section **63-97a-202** is amended to read:

356 **63-97a-202. Creation of Severance Tax Holding Account -- Distribution of funds**
357 **in the account.**

358 (1) (a) There is created a restricted account within the General Fund known as the
359 "Severance Tax Holding Account."

360 (b) The Severance Tax Holding Account shall consist of:

361 (i) appropriations from the Legislature; and

362 (ii) grants from private foundations[; ~~and~~].

363 [~~(iii) interest and investment earnings on Severance Tax Holding Account monies.~~]

364 [~~(2) (a) The Severance Tax Holding Account shall earn interest.~~]

365 [~~(b) All interest earned on monies in the Severance Tax Holding Account shall be~~

366 ~~deposited into the Severance Tax Holding Account.]~~

367 (2) (a) The state treasurer shall invest monies in the account according to Title 51,
368 Chapter 7, State Money Management Act.

369 (b) The Division of Finance shall deposit interest or other earnings derived from
370 investment of account monies into the General Fund.

371 (3) If authorized by law the Division of Finance shall deposit all of the monies in the
372 Severance Tax Holding Account as of June 30, 2009, into the permanent state trust fund.

373 (4) The state treasurer shall invest and separately account for the earnings on funds that
374 are deposited into the permanent state trust fund under this section.

375 (5) (a) In accordance with Utah Constitution Article XXII, Section 4, the interest and
376 dividends earned annually on revenue from severance taxes that are deposited into the
377 permanent state trust fund shall be deposited in the General Fund.

378 (b) Interest and dividends earned on revenue from severance taxes that are deposited in
379 the General Fund pursuant to Subsection (5)(a) shall be credited to the Infrastructure and
380 Economic Diversification Investment Account created in Section 63-97a-201.

381 Section 10. Section **67-5-25** is amended to read:

382 **67-5-25. Litigation Fund for Highway Projects Account.**

383 (1) There is created within the General Fund a restricted account known as the
384 Litigation Fund for Highway Projects Account.

385 (2) The Litigation Fund for Highway Projects Account consists of:

386 (a) appropriations made to the account by the Legislature;

387 (b) transfers to the account from highway project funds as approved by the

388 Transportation Commission; and

389 (c) any donations made to the account[~~;~~and].

390 [~~(d) interest on account monies.~~]

391 (3) (a) The state treasurer shall invest monies in the account according to Title 51,
392 Chapter 7, State Money Management Act.

393 (b) The Division of Finance shall deposit interest or other earnings derived from

394 investment of account monies into the General Fund.

395 ~~[(3)]~~ (4) (a) Upon appropriation by the Legislature, the attorney general shall use
396 monies from the account to pay litigation expenses for defending legal actions filed against the
397 state that challenge highway projects.

398 (b) The Legislature intends that monies in the account be appropriated for a project's
399 litigation expenses before appropriating funds for litigation expenses from any other source.

400 ~~[(4)]~~ (5) The Division of Finance shall:

401 (a) establish subaccounts within the Litigation Fund for Highway Projects Account to
402 hold monies appropriated by the Legislature for litigation expenses for different highway
403 projects;

404 (b) apportion donations received equally among subaccounts unless the donor directs
405 that the donation:

406 (i) be used to defend a specific legal action; or

407 (ii) be deposited into a specific subaccount; and

408 (c) apportion interest between subaccounts proportionally based upon the balance of
409 each subaccount.

410 ~~[(5)]~~ (6) When some or all of the money appropriated to fund litigation expenses for a
411 particular highway project is not expended, the Legislature shall:

412 (a) appropriate those unused monies to the LeRay McAllister Critical Land
413 Conservation Fund created by Section 11-38-301; or

414 (b) return the money to the donor.

415 Section 11. **Effective date.**

416 This bill takes effect on July 1, 2008.