

Representative Bill Wright proposes to substitute the following bill:

ASSET FORFEITURE AMENDMENTS

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Bill Wright

AN ACT RELATING TO CRIMINAL LAW; AMENDING THE CONTROLLED SUBSTANCE ACT FORFEITURE PROVISIONS, INCLUDING PROCEDURES, AND USE OF FORFEITED PROPERTY OR PROCEEDS.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

58-37-13, as last amended by Chapters 198 and 294, Laws of Utah 1996

58-37-15, as enacted by Chapter 145, Laws of Utah 1971

58-37-20, as last amended by Chapter 36, Laws of Utah 1996

ENACTS:

58-37-1.5, Utah Code Annotated 1953

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

Section 1. Section **58-37-1.5** is enacted to read:

58-37-1.5. Purpose.

It is the intent of this chapter to:

(1) discourage the use of controlled substances by restricting availability, licensing, labeling, and packaging of controlled substances and the equipment used solely for manufacturing controlled substances;

(2) recognize the need to prohibit and curtail illegal use of controlled substances while acknowledging that property rights of innocent property owners must be protected; and

(3) limit law enforcement entities' seizures and forfeitures to the extent necessary to protect private citizens from unjustified intrusions, and ensure direct legislative control and accountability

26 over the use of forfeited property and revenue acquired from the disposal of forfeited property.

27 Section 2. Section **58-37-13** is amended to read:

28 **58-37-13. Property subject to forfeiture -- Seizure -- Procedure.**

29 (1) As used in this section:

30 (a) "Claimant" means:

31 (i) any owner as defined in this section;

32 (ii) any interest holder as defined in this section and any other person or entity who asserts
33 a claim to any property seized for forfeiture under this section;

34 (iii) any person who files an answer to a forfeiture complaint in a proceeding instituted
35 under this section; or

36 (iv) any person who files a petition for release of seized property under this section.

37 ~~[(a)]~~ (b) "Complaint" means a verified civil in rem complaint seeking forfeiture or any
38 criminal information or indictment which contains or is amended to include a demand for
39 forfeiture of a defendant's in personam interest in any property which is subject to forfeiture.

40 ~~[(b)]~~ (c) "Drug distributing paraphernalia" means any property used or designed to be used
41 in the illegal transportation, storage, shipping, or circulation of a controlled substance. Property
42 is considered "designed to be used" for one or more of the above-listed purposes if the property
43 has been altered or modified to include a feature or device which would actually promote or
44 conceal a violation of this chapter.

45 ~~[(c)]~~ (d) "Drug manufacturing equipment or supplies" includes any illegally possessed
46 controlled substance precursor, or any chemical, laboratory equipment, or laboratory supplies
47 possessed with intent to engage in clandestine laboratory operation as defined in Section 58-37d-3.

48 ~~[(d)]~~ (e) "Interest holder" means a secured party as defined in Section 70A-9-105(1)(m),
49 a mortgagee, lien creditor, or the beneficiary of a security interest or encumbrance pertaining to
50 an interest in property, whose interest would be perfected against a good faith purchaser for value.
51 A person who holds property for the benefit of or as an agent or nominee for another, or who is
52 not in substantial compliance with any statute requiring an interest in property to be recorded or
53 reflected in public records in order to perfect the interest against a good faith purchaser for value,
54 is not an interest holder.

55 (f) (i) "Owner" means an individual or entity who possesses a legitimate legal or equitable
56 ownership in real or personal property.

57 (ii) Owner does not include an individual or entity who holds property as the nominee or
58 nominal owner for another if the nominee or nominal owner has no legitimate interest in the
59 property.

60 [(e)] (g) "Proceeds" means property acquired directly or indirectly from, produced through,
61 realized through, or caused by an act or omission and includes any property of any kind without
62 reduction for expenses incurred in the acquisition, maintenance, or production of that property, or
63 any other purpose.

64 (h) "Real property" means:

65 (i) land; and

66 (ii) any building, fixture, improvement, appurtenance, structure, or other development that
67 is affixed permanently to land.

68 [(f)] (i) "Resolution of criminal charges" occurs at the time a claimant who is also charged
69 with violations under Title 58, Chapters 37, 37a, 37b, 37c, or 37d enters a plea, upon return of a
70 jury verdict or court ruling in a criminal trial, or upon dismissal of the criminal charge.

71 [(g)] (j) "Violation of this chapter" means any conduct prohibited by Title 58, Chapters 37,
72 37a, 37b, 37c, or 37d or any conduct occurring outside the state which would be a violation of the
73 laws of the place where the conduct occurred and which would be a violation of Title 58, Chapters
74 37, 37a, 37b, 37c, or 37d if the conduct had occurred in this state.

75 (2) The following are subject to forfeiture [~~and no property right exists in them~~]:

76 (a) all controlled substances which have been manufactured, distributed, dispensed, or
77 acquired in violation of this chapter;

78 (b) all raw materials, products, and equipment of any kind used, or intended for use, in
79 manufacturing, compounding, processing, delivering, importing, or exporting any controlled
80 substance in violation of this chapter;

81 (c) all property used or intended for use as a container for property described in
82 Subsections (2)(a) and (2)(b);

83 (d) all hypodermic needles, syringes, and other paraphernalia, not including capsules used
84 with health food supplements and herbs, used or intended for use to administer controlled
85 substances in violation of this chapter;

86 (e) all conveyances including aircraft, vehicles, or vessels used or intended for use, to
87 transport, or in any manner facilitate the transportation, sale, receipt, simple possession, or

88 concealment of property described in Subsections (2)(a) and (2)(b), except that:

89 (i) a conveyance used by any person as a common carrier in the transaction of business as
90 a common carrier may not be forfeited under this section unless the owner or other person in
91 charge of the conveyance was a consenting party or knew or had reason to know of the violation
92 of this chapter;

93 (ii) a conveyance may not be forfeited under this section by reason of any act or omission
94 committed or omitted without the owner's knowledge or consent; and

95 (iii) any forfeiture of a conveyance is subject to the claim of an interest holder who did not
96 know or have reason to know after the exercise of reasonable diligence, or did not intend that a
97 violation would [~~or did~~] take place in the use of the conveyance;

98 (f) all books, records, and research, including formulas, microfilm, tapes, and data used
99 or intended for use in violation of this chapter;

100 (g) everything of value furnished or intended to be furnished by the owner in exchange for
101 a controlled substance in violation of this chapter, and all moneys, negotiable instruments, and
102 securities used or intended to be used by the owner to facilitate any violation of this chapter. An
103 interest in property may not be forfeited under this subsection unless it is proven by a
104 preponderance of the evidence that the owner and any interest holder knew of, had reason to know
105 of, or consented to the conduct which made the property subject to forfeiture. The burden of
106 presenting this evidence [~~shall be~~] is upon the state;

107 (h) all imitation controlled substances as defined in Section 58-37b-2, Imitation Controlled
108 Substances Act;

109 (i) all warehousing, housing, and storage facilities, or interest in real property of any kind
110 used, or intended for use, in producing, cultivating, warehousing, storing, protecting, or
111 manufacturing any controlled substances in violation of this chapter, except that:

112 (i) any forfeiture of a housing, warehousing, or storage facility or interest in real property
113 [~~is subject to the claim of an interest holder who did not know or have~~] may not occur or be
114 granted unless the state proves that the owner or any interest holders knew or had reason to know
115 after the exercise of reasonable diligence [~~that~~], or consented in, or participated in a violation
116 [~~would take place~~] of this chapter on the property; and

117 (ii) an interest in real property may not be forfeited under this subsection if the owner or
118 any interest holder did not know or have reason to know of the conduct which made the property

119 subject to forfeiture, or did not willingly consent to the conduct; [and]

120 ~~[(iii) unless the premises are used in producing, cultivating, or manufacturing controlled~~
121 ~~substances, a housing, warehousing, or storage facility or interest in real property may not be~~
122 ~~forfeited under this subsection unless cumulative sales of controlled substances on the property~~
123 ~~within a two-month period total or exceed \$1,000, or the street value of any controlled substances~~
124 ~~found on the premises at any given time totals or exceeds \$1,000. A narcotics officer experienced~~
125 ~~in controlled substances law enforcement may testify to establish the street value of the controlled~~
126 ~~substances for purposes of this subsection;]~~

127 (j) any firearm, weapon, or ammunition carried or used during or in relation to a violation
128 of this chapter or any firearm, weapon, or ammunition kept or located within the proximity of
129 controlled substances or other property subject to forfeiture under this section if the weapon was
130 used, carried, or intended for use by, or placed in the proximity of controlled substances or other
131 property subject to forfeiture by, the owner of the weapon, or with the consent and knowledge of
132 the owner of the weapon; and

133 (k) all proceeds traceable to any violation of this chapter. There is a rebuttable
134 presumption that all money, coins, and currency found in proximity to forfeitable controlled
135 substances, drug manufacturing equipment or supplies, drug distributing paraphernalia, or
136 forfeitable records of importation, manufacture, or distribution of controlled substances are
137 proceeds traceable to a violation of this chapter. The burden of proof is upon the [claimant of the
138 property] state to [rebut] establish this presumption.

139 (3) (a) Property subject to forfeiture under this chapter may be seized by any peace officer
140 of this state upon process issued by any court having jurisdiction over the property. However,
141 seizure without process may be made when:

142 (i) the seizure is incident to an arrest or search under a search warrant or an inspection
143 under an administrative inspection warrant;

144 (ii) the property subject to seizure has been the subject of a prior judgment in favor of the
145 state in a criminal injunction or forfeiture proceeding under this chapter;

146 (iii) the peace officer has probable cause to believe that the property is directly or indirectly
147 dangerous to health or safety; or

148 (iv) the peace officer has probable cause to believe that the property has been used or
149 intended to be used in violation of this chapter and has probable cause to believe the property will

150 be damaged, intentionally diminished in value, destroyed, concealed, or removed from the state.

151 (b) Upon the filing of a complaint, the court shall, upon a showing of probable cause to
152 believe that the seized property is subject to forfeiture under this section, immediately issue to the
153 seizing agency a warrant for seizure of any property subject to forfeiture which had been seized
154 without a warrant in a manner described in this subsection.

155 (c) Subsections (4)(a) and (b) do not limit a law enforcement officer's authority under
156 Amendment IV, Constitution of the United States, or under Utah Constitution Article 1, Sec.14.

157 (4) In the event of seizure under Subsection (3), forfeiture proceedings under Subsection
158 (9) shall be instituted within 90 days of the seizure. The time period may be extended by the court
159 having jurisdiction over the property upon notice to all claimants and interest holders and for good
160 cause shown.

161 (5) Property taken or detained under this section is not repleviable but is in custody of the
162 law enforcement agency making the seizure, subject only to the orders and decrees of the court or
163 the official having jurisdiction. When property is seized under this chapter, the appropriate person
164 or agency may:

165 (a) place the property under seal;

166 (b) remove the property to a place designated by it or the warrant under which it was
167 seized; or

168 (c) take custody of the property and remove it to an appropriate location for disposition
169 in accordance with law.

170 (6) All substances listed in [~~Schedule~~] Schedules I through V, and all items listed in
171 Subsections (2)(a), (b), (c), (d), (f), and (h) that are possessed, transferred, distributed, or offered
172 for distribution in violation of this chapter are contraband and [no property right shall exist in
173 them] are summarily forfeitable. All substances listed in [~~Schedule~~] Schedules I through V, and
174 all items listed in Subsections (2)(a), (b), (c), (d), (f), and (h) which are seized or come into the
175 possession of the state may be retained for any evidentiary or investigative purpose, including
176 sampling or other preservation prior to disposal or destruction by the state.

177 (7) All marijuana or any species of plants from which controlled substances in Schedules
178 I and II are derived which have been planted or cultivated in violation of this chapter, or of which
179 the owners or cultivators are unknown, or are wild growths, may be seized and retained for any
180 evidentiary or investigative purpose, including sampling or other preservation prior to disposal or

181 destruction by the state. Failure, upon demand by the department or its authorized agent, of any
182 person in occupancy or in control of land or premises upon which species of plants are growing
183 or being stored, to produce an appropriate license or proof that he is the holder of a license, is
184 authority for the seizure and forfeiture of the plants.

185 (8) When any property is forfeited under this chapter [~~by a finding of the court that no~~
186 ~~person is entitled to recover the property, it shall be deposited in the custody of the Division of~~
187 ~~Finance. Disposition of all property]~~ disposition is as follows:

188 (a) (i) The state may include in its complaint seeking forfeiture, a request that the seizing
189 agency be awarded the property. Upon a finding that the seizing agency has a need for and is able
190 to use the forfeited property in the enforcement of controlled substances laws, the court having
191 jurisdiction over the case shall award the property to the seizing agency, subject to the restrictions
192 in Subsection (8)(a)(ii).

193 (ii) Each agency shall use the forfeited property for controlled substance law enforcement
194 purposes only. Forfeited property or proceeds from the sale of forfeited property may not be used
195 to pay any cash incentive, award, or bonus to any peace officer or individual acting as an agent for
196 the agency, nor may it be used to supplant any ordinary operating expense of the agency.

197 (iii) The seizing agency shall pay to the prosecuting agency the legal costs incurred in
198 filing and pursuing the forfeiture action. Property forfeited under this section may not be applied
199 by the court to judgments, costs, or fines assessed against any claimant or defendant in the case.

200 (iv) In all cases in which a request, finding, and award by and to the seizing agency is
201 made, the prosecuting agency shall make a report of the award and judgment of forfeiture to the
202 director of the Department of Finance.

203 (b) Property forfeited and awarded to a seizing agency under Subsection (8)(a) may only
204 be used for law enforcement purposes as defined in Subsection (8)(a), and only after appropriation
205 by the seizing agency's legislative body for those purposes. The proceeds under this section may
206 be:

207 (i) appropriated only by the respective state, county, or municipal legislative body; and

208 (ii) used for matching grant purposes by the legislative body.

209 (c) (i) For all forfeiture proceedings where no request, finding, and award under Subsection
210 (8)(a) is made, the forfeited property shall be deposited in the custody of the Division of Finance.

211 [(b)] (ii) The seizing agency, or if it makes no application, any state agency, bureau,

212 county, or municipality, which demonstrates a need for specific property or classes of property
213 subject to forfeiture shall be given the property for use in enforcement of controlled substances
214 laws upon the payment of costs to the county attorney or, if within a prosecution district, the
215 district attorney for legal costs for filing and pursuing the forfeiture and upon application for the
216 property to the director of the Division of Finance. The application shall clearly set forth the need
217 for the property and the use to which the property will be put.

218 [(e)] (d) The director of the Division of Finance shall review all applications for property
219 submitted under Subsection (8)(b) and, if the seizing agency makes no application, make a
220 determination based on necessity and advisability as to final disposition and shall notify the
221 designated applicant or seizing agency, where no application is made, who may obtain the property
222 upon payment of all costs to the appropriate department. The Division of Finance shall in turn
223 reimburse the prosecuting agency or agencies for costs of filing and pursuing the forfeiture action,
224 not to exceed the amount of the net proceeds received for the sale of the property. Any proceeds
225 remaining after payment shall be returned to the seizing agency or agencies.

226 [(d)] (e) If no disposition is made upon an application under Subsection (8)(a) or (b), the
227 director of the Division of Finance shall dispose of the property by public bidding or as considered
228 appropriate, by destruction. Proof of destruction shall be upon oath of two officers or employees
229 of the department having charge of the property, and verified by the director of the department or
230 his designated agent.

231 (9) Forfeiture proceedings shall be commenced as follows:

232 (a) For actions brought under Subsections [~~(2)(a) through (2)(j)~~] (2)(e), (g), (i), and (j), a
233 complaint shall be prepared by the county attorney, or if within a prosecution district, the district
234 attorney, or the attorney general, and filed in a court of record where the property was seized or
235 is to be seized. In cases in which the owner or a claimant of the property is also charged as a
236 criminal defendant, the complaint shall be filed in the county where the criminal charges arose,
237 regardless of the location of the property. The complaint shall include:

- 238 (i) a description of the property which is subject to forfeiture;
239 (ii) the date and place of seizure[, if known]; and
240 (iii) the allegations of conduct which gives rise to forfeiture.

241 (b) In actions brought under Subsections (2)(e), (g), (i), and (j) cases where a claimant is
242 also charged as a criminal defendant, the forfeiture shall proceed as part of the criminal

243 prosecution as an in personam action against the defendant's interest in the property subject to
244 forfeiture. A defendant need not file a written answer to the complaint, but may acknowledge or
245 deny interest in the property at the time of first appearance on the criminal charges. If a criminal
246 information or indictment is amended to include a demand for forfeiture, the defendant may
247 respond to the demand at the time of the amendment.

248 (i) Unless motion for disposition is made by the defendant, the determination of forfeiture
249 shall be stayed until resolution of the criminal charges. Hearing on the forfeiture shall be before
250 the court without a jury. The court may consider any evidence presented in the criminal case, and
251 receive any other evidence offered by the state or the defendant. The court shall determine by a
252 preponderance of the evidence the issues in the case and order forfeiture or release of the property
253 as it determines.

254 (ii) A defendant may move the court to transfer the forfeiture action, to stay all action,
255 including discovery, in the forfeiture, or for hearing on the forfeiture any time prior to trial of the
256 criminal charges. Either party may move the court to enter a finding of forfeiture as to defendant's
257 interest in part or all of the property, either by default or by stipulation. Upon entry of a finding,
258 the court shall stay the entry of judgment until resolution of the criminal charges. Any finding of
259 forfeiture entered by the court prior to resolution of the criminal charges may not constitute a
260 separate judgment, and any motion for disposition, stay, severance, or transfer of the forfeiture
261 action may not create a separate proceeding. Upon the granting of a motion by the defendant for
262 disposition, stay, severance, or transfer of the forfeiture action, the defendant shall be considered
263 to have waived any claim that the defendant has been twice put in jeopardy for the same offense.

264 (iii) Any other person claiming an interest in property subject to forfeiture under this
265 subsection may not intervene in a trial or appeal of a complaint filed under this subsection.
266 Following the entry of an in personam forfeiture order, or upon the filing of a petition for release
267 under Subsection (9)(e), the county attorney, district attorney, or attorney general may proceed with
268 a separate in rem action to resolve any other claims upon the property subject to forfeiture.

269 (c) [~~A complaint~~] In actions seeking forfeiture under Subsection (2)(k) a complaint shall
270 be prepared by the county attorney, or if within a prosecution district, the district attorney, or by
271 the attorney general, either in personam as part of a criminal prosecution, or in a separate civil in
272 rem action against the property alleged to be proceeds obtained in violation of this chapter, and
273 filed in the county where the property is seized or encumbered, if the proceeds are located outside

274 the state. A finding that property is the proceeds of a violation of this chapter does not require
275 proof that the property is the proceeds of any particular exchange or transaction. Proof that
276 property is proceeds may be shown by evidence which establishes all of the following by a
277 preponderance of the evidence:

278 (i) that the owner, if any claim of ownership is made, and the person from whom the
279 property was seized has engaged in conduct in violation of this chapter;

280 (ii) that the property was acquired by the owner, if any claim of ownership is made, and
281 the person from whom the property was seized during that period when the conduct in violation
282 of this chapter occurred or within a reasonable time after that period; and

283 (iii) that there was no likely source for the property other than conduct in violation of the
284 chapter.

285 (d) Notice of the seizure and intended forfeiture shall be filed with the clerk of the court,
286 and served upon all persons known to the county attorney or district attorney to have a claim in the
287 property by:

288 (i) personal service upon [a] any owner or claimant [~~who is charged in a criminal~~
289 ~~information or indictment~~] in all in personam forfeiture actions, and upon all owners of real
290 property subject to forfeiture in all cases, whether in personam or in rem; and

291 (ii) certified mail to each owner, interest holder, or claimant, in an in rem forfeiture
292 proceeding not affecting real property, whose name and address is known or to each owner whose
293 right, title, or interest is of record in the Division of Motor Vehicles to the address given upon the
294 records of the division, which service is considered complete even though the mail is refused or
295 cannot be forwarded. The county attorney, district attorney, or attorney general shall make one
296 publication in a newspaper of general circulation in the county where the seizure was made for all
297 other claimants whose addresses are unknown, but who are believed to have an interest in the
298 property.

299 (e) Except under Subsection (9)(a) in personam actions, any claimant or interest holder
300 shall file with the court a verified answer to the complaint within 20 days after service. When
301 property is seized under this chapter, any owner, interest holder, or claimant of the property, prior
302 to being served with a complaint under this section, may file a petition in the court having
303 jurisdiction for release of his interest in the property. The petition shall specify the owner's,
304 interest holder's, or claimant's interest in the property and his right to have it released. A copy shall

305 be served upon the county attorney or, if within a prosecution district, the district attorney in the
306 county of the seizure, who shall answer the petition within 20 days. A [petitioner] petitioning
307 owner, interest holder, or claimant need not answer a complaint of forfeiture.

308 (f) For civil actions in rem, after 20 days following service of a complaint or petition for
309 release, the court shall examine the record and if no answer is on file, the court shall allow the
310 complainant or petitioner an opportunity to present evidence in support of his claim and order
311 forfeiture or release of the property as the court determines. If the county attorney or district
312 attorney has not filed an answer to a petition for release and the court determines from the evidence
313 that the petitioner is not entitled to recovery of the property, it shall enter an order directing the
314 county attorney or district attorney to answer the petition within ten days. If no answer is filed
315 within that period, the court shall order the release of the property to the petitioner entitled to
316 receive it.

317 (g) When an answer to a complaint or petition appears of record at the end of 20 days, the
318 court shall set the matter for hearing. At this hearing all claimants, owners, or interested parties
319 may present evidence of their rights of release of the property following the state's evidence for
320 forfeiture. The court shall determine by a preponderance of the evidence the issues in the case and
321 order forfeiture or release of the property as it determines.

322 (h) When the court determines that the claimants have no right in the property in whole
323 or in part, it shall declare the property to be forfeited.

324 (i) When the court determines that property, in whole or in part, is not subject to forfeiture,
325 it shall order release of the property to the proper claimant. If the court determines that the
326 property is subject to forfeiture and release in part, it shall order partial release and partial
327 forfeiture. When the property cannot be divided for partial forfeiture and release, the court shall
328 order it sold and the proceeds distributed:

329 (i) first, proportionally among the legitimate claimants; and

330 (ii) second, [~~to defray the costs of the action, including seizure, storage of the property,~~
331 ~~legal costs of filing and pursuing the forfeiture, and costs of sale; and~~] by the procedures described
332 in Subsection (8).

333 [~~(iii) third, to the Division of Finance for the General Fund;~~]

334 (j) In a proceeding under this section where forfeiture is declared, in whole or in part, the
335 court shall assess all costs of the forfeiture proceeding, including seizure and storage of the

336 property, against the individual or individuals whose conduct was the basis of the forfeiture, and
337 may assess costs against any other claimant or claimants to the property as appropriate.

338 Section 3. Section **58-37-15** is amended to read:

339 **58-37-15. Burden of proof in proceedings on violations -- Enforcement officers**
340 **exempt from liability.**

341 (1) The provisions of Subsections (2) and (3) do not apply to forfeiture proceedings under
342 this chapter.

343 [(1)] (2) It is not necessary for the state to negate any exemption or exception set forth in
344 this act in any complaint, information, indictment or other pleading or trial, hearing, or other
345 proceeding under this act, and the burden of proof of any exemption or exception is upon the
346 person claiming its benefit.

347 [(2)] (3) In absence of proof that a person is the duly authorized holder of an appropriate
348 license, registration, order form, or prescription issued under this act, he shall be presumed not to
349 be the holder of a license, registration, order form, or prescription, and the burden of proof is upon
350 him to rebut the presumption.

351 [(3)] (4) No liability shall be imposed upon any duly authorized state or federal officer
352 engaged in the enforcement of this act who is engaged in the enforcement of any law, municipal
353 ordinance, or regulation relating to controlled substances.

354 Section 4. Section **58-37-20** is amended to read:

355 **58-37-20. Drug Forfeiture Account created -- Revenue sources -- Use of account**
356 **designated.**

357 (1) (a) There is created in the General Fund a restricted account called the "Drug Forfeiture
358 Account."

359 (b) All monies forfeited [~~or seized to the state~~] to the Department of Public Safety or the
360 Department of Corrections, or any division or agency within either department, through the state
361 or federal court process as a result of activity involving a controlled substance violation as
362 prohibited under Title 58, Chapter 37, 37a, 37b, 37c, or 37d, or prohibited under federal law, shall
363 be deposited into the Drug Forfeiture Account.

364 (2) The Department of Public Safety may expend amounts as appropriated by the
365 Legislature from the Drug Forfeiture Account to aid in enforcement efforts to combat drug
366 trafficking.

367 (3) That portion of funds forfeited or siezed that are required to be disbursed to other
368 governmental entities under existing contractual agreements are exempt from this section.

369 (4) Funds forfeited or seized as a result of the Salt Lake Airport Drug Program, not to
370 exceed the Department of Public Safety's expenditure to that program, are exempt from this
371 section.

372 (5) The Department of Public Safety as part of the annual budget hearings shall provide
373 the Executive Offices, Criminal Justice, and Legislature Appropriations Subcommittee with a
374 complete accounting of expenditures and revenues from the funds under this section.

375 (6) The Legislature may annually provide, in the Appropriations Act, legislative direction
376 for anticipated expenditures of the monies received under this section.