

1 **STATUTORY AMENDMENTS TO IMPLEMENT**
2 **BUDGET CUTS**
3 2002 FIFTH SPECIAL SESSION
4 STATE OF UTAH

5 **Sponsor: Leonard M. Blackham**

6 **This act modifies the Budgetary Procedures Act by authorizing the Legislature to**
7 **appropriate monies from a restricted account to cure an operating deficit. This act expands**
8 **the uses of the statewide contingency reserve and capital projects reserve fund to allow them**
9 **to be spent for DFCM administrative costs. This act takes effect immediately.**

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

11 AMENDS:

12 **63A-5-209**, as last amended by Chapter 231, Laws of Utah 2000

13 **63A-5-219**, as renumbered and amended by Chapter 212, Laws of Utah 1993

14 ENACTS:

15 **63-38-3.6**, Utah Code Annotated 1953

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

17 Section 1. Section **63-38-3.6** is enacted to read:

18 **63-38-3.6. Appropriating from restricted accounts.**

19 (1) As used in this section, "operating deficit," means that estimated General Fund or
20 Uniform School Fund revenues are less than budgeted for the current or next fiscal year.

21 (2) Notwithstanding any other statute that limits the Legislature's power to appropriate
22 from a restricted account, if the Legislature determines that an operating deficit exists, **§ UNLESS**

22a **PROHIBITED BY FEDERAL LAW OR COURT ORDER, §** the

23 Legislature may, in eliminating the deficit, appropriate monies from a restricted account into the
24 General Fund.

25 Section 2. Section **63A-5-209** is amended to read:

26 **63A-5-209. Building appropriations supervised by director -- Disposition of surplus.**

27 (1) The director shall:



28 (a) supervise the expenditure of funds in providing plans, engineering specifications, sites,
29 and construction of the buildings for which legislative appropriations are made and shall
30 specifically allocate money appropriated when more than one project is included in any single
31 appropriation without legislative directive;

32 (b) (i) expend the amount necessary from appropriations for planning, engineering, and
33 architectural work; and

34 (ii) allocate amounts from appropriations necessary to cover expenditures previously made
35 from the planning fund in the preparation of plans, engineering, and specifications shall be
36 returned to the fund; and

37 (c) hold in a statewide contingency reserve the amount budgeted for contingencies in
38 appropriations for the construction or remodeling of facilities, for contingencies which may be over
39 and above all amounts obligated by contract for planning, engineering, and architectural work,
40 sites, and construction contracts.

41 (i) The amount budgeted for contingencies shall be based on a sliding scale percentage of
42 the construction cost. The sliding scale shall range from 4-1/2% to 6-1/2% for new construction,
43 and from 6% to 9-1/2% for remodeling projects.

44 (ii) The statewide contingency funds shall be held by the director to cover costs such as
45 change orders and other unforeseen, necessary costs beyond those specifically budgeted for the
46 project.

47 (iii) (A) The Legislature shall annually review the percentage and the amount held in the
48 statewide contingency reserve. [~~It~~]

49 (B) The Legislature may reappropriate to other building needs, including the cost of
50 administering building projects, any amount from the statewide contingency reserve [~~which~~] that
51 is determined to be in excess of the reserve required to meet future contingency needs.

52 (2) The director shall hold in a separate reserve those state appropriated funds accrued
53 through bid savings and project residual as a project reserve.

54 (a) The director may authorize the use of project reserve funds only for the award of
55 contracts in excess of the construction budget if this is required to meet the intent of the project.

56 (b) The Legislature shall annually review the amount held in the project reserve for
57 possible reallocation by the Legislature to other building needs, including the cost of administering
58 building projects.

59 (3) If any part of the appropriation for a building project, other than the part set aside for
60 the Utah Percent-for-Art Program under Title 9, Chapter 6, Part 4, remains unencumbered after
61 the award of construction and professional service contracts, and establishing a reserve for fixed
62 and moveable equipment, the balance of the appropriation shall be dedicated to the project reserve
63 and does not revert to the General Fund.

64 (4) (a) One percent of the amount appropriated for the construction of any new state
65 building or facility may be appropriated and set aside for the Utah Percent-for-Art Program
66 administered by the Division of Fine Arts under Title 9, Chapter 6, Part 4.

67 (b) The director shall release to the Division of Fine Arts any funds included in an
68 appropriation to the division that are designated by the Legislature for the Utah Percent-for-Art
69 Program.

70 (c) Funds from appropriations for any state building or facility of which any part is derived
71 from the issuance of bonds, to the extent it would jeopardize the federal income tax exemption
72 otherwise allowed for interest paid on bonds, may not be set aside.

73 Section 3. Section **63A-5-219** is amended to read:

74 **63A-5-219. Transfer from project reserve monies.**

75 (1) With the approval of and through an appropriation by the Legislature, the division shall
76 transfer at least \$100,000 annually from the project reserve monies to the General Fund to pay for
77 personal service expenses associated with the management of construction projects.

78 (2) With the approval of and as directed by the Legislature, the division shall transfer
79 additional monies from the project reserve monies to pay administrative costs associated with the
80 management of construction projects and other division responsibilities.

81 Section 4. **Effective date.**

82 If approved by two-thirds of all the members elected to each house, this act takes effect
83 upon approval by the governor, or the day following the constitutional time limit of Utah
84 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the
85 date of veto override.

Legislative Review Note

as of 7-9-02 3:25 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel