

**STATUTORY AMENDMENTS TO IMPLEMENT
BUDGET CUTS**

2002 FIFTH SPECIAL SESSION

STATE OF UTAH

Sponsor: Leonard M. Blackham

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

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

AMENDS:

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

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

ENACTS:

63-38-3.6, Utah Code Annotated 1953

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

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

63-38-3.6. Appropriating from restricted accounts.

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

(2) Notwithstanding any other statute that limits the Legislature's power to appropriate from a restricted account, if the Legislature determines that an operating deficit exists, unless prohibited by federal law or court order, the Legislature may, in eliminating the deficit, appropriate monies from a restricted account into the General Fund.

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

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

(1) The director shall:

(a) supervise the expenditure of funds in providing plans, engineering specifications, sites, and construction of the buildings for which legislative appropriations are made and shall

specifically allocate money appropriated when more than one project is included in any single appropriation without legislative directive;

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

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

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

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

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

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

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

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

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

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

projects.

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

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

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

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

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

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

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

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