

1                                   **DEPOSIT OF INTEREST EARNED ON**  
2   **RESTRICTED FUNDS**

3   2008 SECOND SPECIAL SESSION  
4   STATE OF UTAH

5                                   **Chief Sponsor: Lyle W. Hillyard**

6                                   House Sponsor: Ron Bigelow

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8 **LONG TITLE**

9 **General Description:**

10           This bill modifies provisions relating to the deposit of interest from the General Fund  
11 Budget Reserve Account and the Education Fund Budget Reserve Account.

12 **Highlighted Provisions:**

13           This bill:

- 14           ▶ provides that interest generated from funds in the General Fund Budget Reserve  
15 Account (the "Rainy Day Fund") be deposited into the General Fund rather than the  
16 General Fund Budget Reserve Account;
- 17           ▶ provides that interest generated from funds in the Education Fund Budget Reserve  
18 Account be deposited into the Education Fund rather than the Education Fund  
19 Budget Reserve Account; and
- 20           ▶ makes technical changes.

21 **Monies Appropriated in this Bill:**

22           None

23 **Other Special Clauses:**

24           This bill provides an immediate effective date.

25 **Utah Code Sections Affected:**

26 **AMENDS:**

27           **63J-1-202**, as last amended by Laws of Utah 2008, Chapter 138 and renumbered and  
28 amended by Laws of Utah 2008, Chapter 382

29           **63J-1-203**, as last amended by Laws of Utah 2008, Chapter 138 and renumbered and

30 amended by Laws of Utah 2008, Chapter 382



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

33 Section 1. Section **63J-1-202** is amended to read:

34 **63J-1-202. Establishing a General Fund Budget Reserve Account -- Providing**  
35 **for deposits and expenditures from the account -- Providing for interest generated by the**  
36 **account.**

37 (1) As used in this section:

38 (a) "Education Fund budget deficit" means a situation where appropriations made by  
39 the Legislature from the Education Fund for a fiscal year exceed the estimated revenues  
40 adopted by the Executive Appropriations Committee of the Legislature for the Education Fund  
41 in that fiscal year.

42 (b) "General Fund appropriations" means the sum of the spending authority for a fiscal  
43 year that is:

44 (i) granted by the Legislature in all appropriation acts and bills; and

45 (ii) identified as coming from the General Fund.

46 (c) "General Fund budget deficit" means a situation where General Fund  
47 appropriations made by the Legislature for a fiscal year exceed the estimated revenues adopted  
48 by the Executive Appropriations Committee of the Legislature for the General Fund in that  
49 fiscal year.

50 (d) "General Fund revenue surplus" means a situation where actual General Fund  
51 revenues collected in a completed fiscal year exceed the estimated revenues for the General  
52 Fund for that fiscal year that were adopted by the Executive Appropriations Committee of the  
53 Legislature.

54 (e) "Operating deficit" means that, at the end of the fiscal year, the unreserved and  
55 undesignated fund balance in the General Fund is less than zero.

56 (2) There is created within the General Fund a restricted account to be known as the  
57 General Fund Budget Reserve Account, which is designated to receive the legislative

58 appropriations, investment earnings, and the surplus revenue required to be deposited into the  
59 account by this section.

60 (3) (a) (i) Except as provided in Subsection (3)(a)(ii), at the end of any fiscal year in  
61 which the Division of Finance, in consultation with the Legislative Fiscal Analyst and in  
62 conjunction with the completion of the annual audit by the state auditor, determines that there  
63 is a General Fund revenue surplus, the Division of Finance shall transfer 25% of the General  
64 Fund revenue surplus to the General Fund Budget Reserve Account.

65 (ii) If the transfer of 25% of the General Fund revenue surplus to the General Fund  
66 Budget Reserve Account would cause the balance in the account to exceed 6% of General  
67 Fund appropriations for the fiscal year in which the revenue surplus occurred, the Division of  
68 Finance shall transfer only those funds necessary to ensure that the balance in the account  
69 equals 6% of General Fund appropriations for the fiscal year in which the General Fund  
70 revenue surplus occurred.

71 (iii) The Division of Finance shall calculate the amount to be transferred under this  
72 Subsection (3)(a):

73 (A) before transferring from the General Fund revenue surplus any other year-end  
74 contingency appropriations, year-end set-asides, or other year-end transfers required by law;  
75 and

76 (B) excluding the investment earnings for the fiscal year and excluding any direct  
77 legislative appropriation made to the General Fund Budget Reserve Account for the fiscal  
78 year.

79 (b) (i) Except as provided in Subsection (3)(b)(ii), in addition to Subsection (3)(a)(i),  
80 if a General Fund revenue surplus exists and if, within the last ten years, the Legislature has  
81 appropriated any money from the General Fund Budget Reserve Account that has not been  
82 replaced by appropriation or as provided in this Subsection (3)(b), the Division of Finance  
83 shall transfer up to 25% more of the General Fund revenue surplus to the General Fund Budget  
84 Reserve Account to replace the amounts appropriated, until direct legislative appropriations, if  
85 any, and transfers from the General Fund revenue surplus under this Subsection (3)(b) have

86 replaced the appropriations from the account.

87           (ii) If the transfer under Subsection (3)(b)(i) would cause the balance in the account to  
88 exceed 6% of General Fund appropriations for the fiscal year in which the revenue surplus  
89 occurred, the Division of Finance shall transfer only those funds necessary to ensure that the  
90 balance in the account equals 6% of General Fund appropriations for the fiscal year in which  
91 the revenue surplus occurred.

92           (iii) The Division of Finance shall calculate the amount to be transferred under this  
93 Subsection (3)(b):

94           (A) before transferring from the General Fund revenue surplus any other year-end  
95 contingency appropriations, year-end set-asides, or other year-end transfers required by law;  
96 and

97           (B) excluding the investment earnings for the fiscal year and excluding any direct  
98 legislative appropriation made to the General Fund Budget Reserve Account for the fiscal  
99 year.

100           (c) For appropriations made by the Legislature to the General Fund Budget Reserve  
101 Account, the Division of Finance shall treat those appropriations, unless otherwise specified in  
102 the appropriation, as replacement funds for appropriations made from the account if funds  
103 were appropriated from the General Fund Budget Reserve Account within the past ten years  
104 and have not yet been replaced.

105           (4) (a) If, at the close of any fiscal year, there appear to be insufficient monies to pay  
106 additional debt service for any bonded debt authorized by the Legislature, the Division of  
107 Finance may hold back from any General Fund revenue surplus monies sufficient to pay the  
108 additional debt service requirements resulting from issuance of bonded debt that was  
109 authorized by the Legislature.

110           (b) The Division of Finance may not spend the hold back amount for debt service  
111 under Subsection (4)(a) unless and until it is appropriated by the Legislature.

112           (c) If, after calculating the amount for transfers to the General Fund Budget Reserve  
113 Account, the remaining General Fund revenue surplus is insufficient to cover the hold back for

114 debt service required by Subsection (4)(a), the Division of Finance shall reduce the transfer to  
115 the General Fund Budget Reserve Account by the amount necessary to cover the debt service  
116 hold back.

117 (d) Notwithstanding Subsection (3), the Division of Finance shall hold back the  
118 General Fund balance for debt service authorized by this Subsection (4) before making any  
119 transfers to the General Fund Budget Reserve Account or any other designation or allocation  
120 of General Fund revenue surplus.

121 (5) Notwithstanding Subsection (3), if, at the end of a fiscal year, the Division of  
122 Finance determines that an operating deficit exists and that holding back the transfers to the  
123 State Disaster Recovery Restricted Account under Section 63J-1-204 does not eliminate the  
124 operating deficit, the Division of Finance may reduce the transfer to the General Fund Budget  
125 Reserve Account by the amount necessary to eliminate the operating deficit.

126 (6) The Legislature may appropriate monies from the General Fund Budget Reserve  
127 Account only to:

128 (a) resolve a General Fund budget deficit, for the fiscal year in which the General Fund  
129 budget deficit occurs;

130 (b) pay some or all of state settlement agreements approved under Title 63G, Chapter  
131 10, State Settlement Agreements Act;

132 (c) pay retroactive tax refunds; or

133 (d) resolve an Education Fund budget deficit.

134 (7) Interest generated from investments of money in the General Fund Budget Reserve  
135 Account shall be deposited into the [account] General Fund.

136 Section 2. Section **63J-1-203** is amended to read:

137 **63J-1-203. Establishing an Education Budget Reserve Account -- Providing for**  
138 **deposits and expenditures from the account -- Providing for interest generated by the**  
139 **account.**

140 (1) As used in this section:

141 (a) "Education Fund appropriations" means the sum of the spending authority for a

142 fiscal year that is:

143 (i) granted by the Legislature in all appropriation acts and bills; and

144 (ii) identified as coming from the Education Fund.

145 (b) "Education Fund budget deficit" means a situation where appropriations made by  
146 the Legislature from the Education Fund for a fiscal year exceed the estimated revenues  
147 adopted by the Executive Appropriations Committee of the Legislature for the Education Fund  
148 in that fiscal year.

149 (c) "Education Fund revenue surplus" means a situation where actual Education Fund  
150 revenues collected in a completed fiscal year exceed the estimated revenues for the Education  
151 Fund in that fiscal year that were adopted by the Executive Appropriations Committee of the  
152 Legislature.

153 (d) "Operating deficit" means that, at the end of the fiscal year, the unreserved and  
154 undesignated fund balance in the Education Fund is less than zero.

155 (2) There is created within the Education Fund a restricted account to be known as the  
156 Education Fund Budget Reserve Account, which is designated to receive the legislative  
157 appropriations, investment earnings, and the surplus revenue required to be deposited into the  
158 account by this section.

159 (3) (a) (i) Except as provided in Subsection (3)(a)(ii), at the end of any fiscal year in  
160 which the Division of Finance, in consultation with the Legislative Fiscal Analyst and in  
161 conjunction with the completion of the annual audit by the state auditor, determines that there  
162 is an Education Fund revenue surplus, the Division of Finance shall transfer 25% of the  
163 Education Fund revenue surplus to the Education Fund Budget Reserve Account.

164 (ii) If the transfer of 25% of the Education Fund revenue surplus to the Education  
165 Fund Budget Reserve Account under Subsection (3)(a)(i) would cause the balance in the  
166 account to exceed 7% of Education Fund appropriations for the fiscal year in which the  
167 Education Fund revenue surplus occurred, the Division of Finance shall transfer only those  
168 funds necessary to ensure that the balance in the account equals 7% of the Education Fund  
169 appropriations for the fiscal year in which the Education Fund revenue surplus occurred.

170 (iii) The Division of Finance shall calculate the amount to be transferred under this  
171 Subsection (3)(a):

172 (A) before transferring from the Education Fund revenue surplus any other year-end  
173 contingency appropriations, year-end set-asides, or other year-end transfers required by law;  
174 and

175 (B) excluding the investment earnings for the fiscal year and excluding any direct  
176 legislative appropriation made to the Education Fund Budget Reserve Account for the fiscal  
177 year.

178 (b) (i) Except as provided in Subsection (3)(b)(ii), in addition to Subsection (3)(a)(i), if  
179 an Education Fund revenue surplus exists and if, within the last ten years, the Legislature has  
180 appropriated any money from the Education Fund Budget Reserve Account that has not been  
181 replaced by appropriation or as provided in this Subsection (3)(b), the Division of Finance  
182 shall transfer up to 25% more of the Education Fund revenue surplus to the Education Fund  
183 Budget Reserve Account to replace the amounts appropriated, until direct legislative  
184 appropriations, if any, and transfers from the Education Fund revenue surplus under this  
185 Subsection (3)(b) have replaced the appropriations from the account.

186 (ii) If the transfer under Subsection (3)(b)(i) would cause the balance in the account to  
187 exceed 7% of Education Fund appropriations for the fiscal year in which the Education Fund  
188 revenue surplus occurred, the Division of Finance shall transfer only those funds necessary to  
189 ensure that the balance in the account equals 7% of Education Fund appropriations for the  
190 fiscal year in which the revenue surplus occurred.

191 (iii) The Division of Finance shall calculate the amount to be transferred under this  
192 Subsection (3)(b):

193 (A) before transferring from the Education Fund revenue surplus any other year-end  
194 contingency appropriations, year-end set-asides, or other year-end transfers required by law;  
195 and

196 (B) excluding the investment earnings for the fiscal year and excluding any direct  
197 legislative appropriation made to the Education Fund Budget Reserve Account for the fiscal

198 year.

199 (c) For appropriations made by the Legislature to the Education Fund Budget Reserve  
200 Account, the Division of Finance shall treat those appropriations, unless specified otherwise in  
201 the appropriation, as replacement funds for appropriations made from the account if funds  
202 were appropriated from the account within the past ten years and have not yet been replaced.

203 (4) Notwithstanding Subsection (3), if, at the end of a fiscal year, the Division of  
204 Finance determines that an operating deficit exists, the Division of Finance may reduce the  
205 transfer to the Education Fund Budget Reserve Account by the amount necessary to eliminate  
206 the operating deficit.

207 (5) The Legislature may appropriate monies from the Education Fund Budget Reserve  
208 Account only to resolve an Education Fund budget deficit.

209 (6) Interest generated from investments of money in the Education Fund Budget  
210 Reserve Account shall be deposited into the [~~account~~] Education Fund.

211 **Section 3. Effective date.**

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