

1 **State Purchasing Reserve Funding**

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ken Ivory

Senate Sponsor:

3 **LONG TITLE**

4 **General Description:**

5 This bill modifies provisions related to state purchasing.

6 **Highlighted Provisions:**

7 This bill:

8 ▶ establishes an administrative fee on state cooperative contracts that the division awards on
9 behalf of an executive branch procurement unit;

10 ▶ deposits revenue from the administrative fee into a restricted account called the State
11 Purchasing Reserve Restricted Account (account);

12 ▶ directs the state treasurer to invest money in the account in precious metals; and

13 ▶ authorizes the money in the account to be used for the purpose of offsetting the cost of
14 procuring goods and services for state entities and ensuring continuity in the state's
15 procurement of goods and services, if certain inflation metrics are met.

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **51-7-2**, as last amended by Laws of Utah 2024, Chapters 418, 492 and 510

23 **63G-6a-2105**, as last amended by Laws of Utah 2016, Chapters 348, 355

24 ENACTS:

25 **67-4-20**, Utah Code Annotated 1953

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

28 Section 1. Section **51-7-2** is amended to read:

29 **51-7-2 . Exemptions from chapter.**

30 (1) Except as provided in Subsection (2), the following funds are exempt from this chapter:

- 31 (a) funds invested in accordance with the participating employees' designation or
32 direction pursuant to a public employees' deferred compensation plan established and
33 operated in compliance with Section 457 of the Internal Revenue Code of 1986, as
34 amended;
- 35 (b) funds of the Utah State Retirement Board;
- 36 (c) funds of the Utah Housing Corporation;
- 37 (d) endowment funds of higher education institutions, including funds of the Higher
38 Education Student Success Endowment, created in Section 53B-7-802;
- 39 (e) permanent and other land grant trust funds established pursuant to the Utah Enabling
40 Act and the Utah Constitution;
- 41 (f) the State Post-Retirement Benefits Trust Fund;
- 42 (g) the funds of the Utah Educational Savings Plan;
- 43 (h) funds of the permanent state trust fund created by and operated under Utah
44 Constitution, Article XXII, Section 4;
- 45 (i) the funds in the Navajo Trust Fund;
- 46 (j) the funds in the Radioactive Waste Perpetual Care and Maintenance Account;
- 47 (k) the funds in the Employers' Reinsurance Fund;
- 48 (l) the funds in the Uninsured Employers' Fund;
- 49 (m) the Utah State Developmental Center Long-Term Sustainability Fund, created in
50 Section 26B-1-331;
- 51 (n) the funds in the Risk Management Fund created in Section 63A-4-201;
- 52 (o) the Utah fund of funds created in Section 63N-6-401;
- 53 (p) the funds deposited into the Utah Homes Investment Program from the
54 Transportation Infrastructure General Fund Support Subfund created in Section
55 72-2-134;[-and]
- 56 (q) subject to Subsection 67-4-19(2), the portion of the funds in the following accounts
57 invested by the state treasurer in precious metals:
- 58 (i) the State Disaster Recovery Restricted Account, created in Section 53-2a-603;
- 59 (ii) the General Fund Budget Reserve Account, created in Section 63J-1-312;
- 60 (iii) the Income Tax Fund Budget Reserve Account, created in Section 63J-1-313; and
- 61 (iv) the Medicaid Growth Reduction and Budget Stabilization Account, created in
62 Section [~~63J-1-315.~~] 63J-1-315; and
- 63 (r) the State Purchasing Reserve Restricted Account created in Section 67-4-20.
- 64 (2) Except for the funds of the Utah State Retirement Board and the Utah Educational

65 Savings Plan, the funds described in Subsection (1) are not exempt from Subsections
66 51-7-14(2) and (3).

67 (3) Notwithstanding Title 52, Chapter 4, Open and Public Meetings Act, a public body that
68 administers a fund described in Subsection (1) may hold a closed meeting to discuss the
69 sale or purchase of identifiable securities, investment funds, or investment contracts.

70 (4) A paper, electronic, or other depiction or record of information relating to investment
71 activities of a fund described in Subsection (1) is not subject to Title 63G, Chapter 2,
72 Government Records Access and Management Act.

73 Section 2. Section **63G-6a-2105** is amended to read:

74 **63G-6a-2105 . Cooperative procurements -- Contracts with federal government**
75 **-- Regional solicitations.**

76 (1)(a) The chief procurement officer may, in accordance with the requirements of this
77 chapter, enter into a cooperative procurement, and a contract that is awarded as a
78 result of a cooperative procurement, with:

79 ~~[(a)]~~ (i) another state;

80 ~~[(b)]~~ (ii) a cooperative purchasing organization; or

81 ~~[(c)]~~ (iii) a public entity inside or outside the state.

82 (b)(i) Except for contracts the chief procurement officer exempts from administrative
83 fees, the chief procurement officer shall ensure that each state cooperative contract
84 that the division awards on behalf of an executive branch procurement unit
85 includes an administrative fee equal to 1% of the total price the executive branch
86 procurement unit pays for procurement items under the contract.

87 (ii) The division shall deposit revenue from the administrative fee described in this
88 Subsection (1)(b) into the State Purchasing Reserve Restricted Account created in
89 Section 67-4-20.

90 (2) A public entity, nonprofit organization, or, as permitted under federal law, an agency of
91 the federal government, may obtain a procurement item from a state cooperative contract
92 or a contract awarded by the chief procurement officer under Subsection (1), without
93 signing a participating addendum if the solicitation issued by the chief procurement
94 officer to obtain the contract includes a statement indicating that the resulting contract
95 will be issued for the benefit of public entities and, as applicable, nonprofit
96 organizations and agencies of the federal government.

97 (3) Except as provided in Section 63G-6a-506, or as otherwise provided in this chapter, an
98 executive branch procurement unit may not obtain a procurement item from a source

99 other than a state cooperative contract or a contract awarded by the chief procurement
100 officer under Subsection [(+) (1)(a), if the procurement item is available under a state
101 cooperative contract or a contract awarded by the chief procurement officer under
102 Subsection [(+) (1)(a).

103 (4) A Utah procurement unit may:

104 (a) contract with the federal government without going through a standard procurement
105 process or an exception to a standard procurement process, described in Part 8,
106 Exceptions to Procurement Requirements, if the procurement item obtained under the
107 contract is provided:

108 (i) directly by the federal government and not by a person contracting with the
109 federal government; or

110 (ii) by a person under contract with the federal government that obtained the contract
111 in a manner that substantially complies with the provisions of this chapter;

112 (b) participate in, sponsor, conduct, or administer a cooperative procurement with
113 another Utah procurement unit or another public entity in Utah, if:

114 (i) each party unit involved in the cooperative procurement enters into an agreement
115 describing the rights and duties of each party;

116 (ii) the procurement is conducted, and the contract awarded, in accordance with the
117 requirements of this chapter;

118 (iii) the solicitation:

119 (A) clearly indicates that the procurement is a cooperative procurement; and

120 (B) identifies each party that may purchase under the resulting contract; and

121 (iv) each party involved in the cooperative procurement signs a participating
122 addendum describing its rights and obligations in relation to the resulting contract;

123 or

124 (c) purchase under, or otherwise participate in, an agreement or contract of a cooperative
125 purchasing organization, if:

126 (i) each party involved in the cooperative procurement enters into an agreement
127 describing the rights and duties of each party;

128 (ii) the procurement was conducted in accordance with the requirements of this
129 chapter;

130 (iii) the solicitation:

131 (A) clearly indicates that the procurement is a cooperative procurement; and

132 (B) identifies each party that may purchase under the resulting contract; and

- 133 (iv) each party involved in the cooperative procurement signs a participating
134 addendum describing its rights and obligations in relation to the resulting contract.
- 135 (5) A procurement unit may not obtain a procurement item under a contract that results
136 from a cooperative procurement described in Subsection (4), unless the procurement
137 unit:
- 138 (a) is identified under Subsection (4)(b)(iii)(B) or (4)(c)(iii)(B); and
139 (b) signs a participating addendum to the contract as required by this section.
- 140 (6) A procurement unit, other than a legislative procurement unit or a judicial procurement
141 unit, may not obtain a procurement item under a contract held by the United States
142 General Services Administration, unless, based upon documentation provided by the
143 procurement unit, the Director of the State Division of Purchasing and General Services
144 determines in writing that the United States General Services Administration procured
145 the contract in a manner that substantially complies with the provisions of this chapter.
- 146 (7)(a) As used in this Subsection (7), "regional solicitation" means a solicitation issued
147 by the chief procurement officer for the procurement of a procurement item within a
148 specified geographical region of the state.
- 149 (b) In addition to any other duty or authority under this section, the chief procurement
150 officer shall:
- 151 (i) after considering board recommendations, develop a plan for issuing regional
152 solicitations; and
153 (ii) after developing a plan, issue regional solicitations for procurement items in
154 accordance with the plan and this chapter.
- 155 (c) A plan under Subsection (7)(b) shall:
- 156 (i) define the proposed regional boundaries for regional solicitations;
157 (ii) specify the types of procurement items for which a regional solicitation may be
158 issued; and
159 (iii) identify the regional solicitations that the chief procurement officer plans to issue.
- 160 (d) A regional solicitation shall require that a person responding to the solicitation offer
161 similar warranties and submit to similar obligations as are standard under other state
162 cooperative contracts.
- 163 (e) Except as authorized by the chief procurement officer, a procurement item that is
164 available under a state cooperative contract may not be provided under a contract
165 pursuant to a regional solicitation until after the expiration of the state cooperative
166 contract.

167 Section 3. Section **67-4-20** is enacted to read:

168 **67-4-20 . State Purchasing Reserve Restricted Account.**

169 (1) As used in this section, "precious metal" means the same as that term is defined in
170 Section 61-1-13.

171 (2) There is created within the General Fund a restricted account known as the State
172 Purchasing Reserve Restricted Account.

173 (3) The account is funded by:

174 (a) revenue from the fee created in Subsection 63G-6a-2105(1)(b); and

175 (b) the appreciated value of investments made with the money deposited into the
176 account.

177 (4)(a) The state treasurer shall invest the money in the account in precious metals.

178 (b) The requirements of Subsections 51-7-14(2) and (3) apply to the state treasurer's
179 investment in precious metals under this section.

180 (5) The Legislature may appropriate money from the account:

181 (a) if the Chained Consumer Price Index is at least two standard deviations above the 15
182 year mean of the Chained Consumer Price Index; and

183 (b) for the purpose of offsetting the cost of procuring goods and services for state
184 entities and ensuring continuity in the state's procurement of goods and services.

185 (6) When the Legislature appropriates money from the account, the state treasurer shall sell
186 investments sufficient to effectuate the appropriation.

187 Section 4. **Effective Date.**

188 This bill takes effect on May 7, 2025.