

Effective 5/12/2015

63J-1-313 Establishing an Education Budget Reserve Account -- Providing for deposits and expenditures from the account -- Providing for interest generated by the account.

- (1) As used in this section:
 - (a) "Education Fund appropriations" means the sum of the spending authority for a fiscal year that is:
 - (i) granted by the Legislature in all appropriation acts and bills; and
 - (ii) identified as coming from the Education Fund.
 - (b) "Education Fund budget deficit" means a situation where appropriations made by the Legislature from the Education Fund for a fiscal year exceed the estimated revenues adopted by the Executive Appropriations Committee of the Legislature for the Education Fund in that fiscal year.
 - (c) "Education Fund revenue surplus" means a situation where actual Education Fund revenues collected in a completed fiscal year exceed the estimated revenues for the Education Fund in that fiscal year that were adopted by the Executive Appropriations Committee of the Legislature.
 - (d) "Operating deficit" means that, at the end of the fiscal year, the unassigned fund balance in the Education Fund is less than zero.
- (2) There is created within the Education Fund a restricted account to be known as the Education Fund Budget Reserve Account, which is designated to receive the legislative appropriations and the surplus revenue required to be deposited into the account by this section.
- (3)
 - (a)
 - (i) Except as provided in Subsection (3)(a)(ii), at the end of any fiscal year in which the Division of Finance, in consultation with the Legislative Fiscal Analyst and in conjunction with the completion of the annual audit by the state auditor, determines that there is an Education Fund revenue surplus, the Division of Finance shall transfer 25% of the Education Fund revenue surplus to the Education Fund Budget Reserve Account.
 - (ii) If the transfer of 25% of the Education Fund revenue surplus to the Education Fund Budget Reserve Account under Subsection (3)(a)(i) would cause the balance in the account to exceed 11% of Education Fund appropriations for the fiscal year in which the Education Fund revenue surplus occurred, the Division of Finance shall transfer only those funds necessary to ensure that the balance in the account equals 11% of the Education Fund appropriations for the fiscal year in which the Education Fund revenue surplus occurred.
 - (iii) The Division of Finance shall calculate the amount to be transferred under this Subsection (3)(a):
 - (A) before transferring from the Education Fund revenue surplus any other year-end contingency appropriations, year-end set-asides, or other year-end transfers required by law; and
 - (B) excluding any direct legislative appropriation made to the Education Fund Budget Reserve Account for the fiscal year.
 - (b)
 - (i) Except as provided in Subsection (3)(b)(ii), in addition to Subsection (3)(a)(i), if an Education Fund revenue surplus exists and if, within the last 10 years, the Legislature has appropriated any money from the Education Fund Budget Reserve Account that has not been replaced by appropriation or as provided in this Subsection (3)(b), the Division of Finance shall transfer up to 25% more of the Education Fund revenue surplus to the Education Fund Budget Reserve Account to replace the amounts appropriated, until direct

legislative appropriations, if any, and transfers from the Education Fund revenue surplus under this Subsection (3)(b) have replaced the appropriations from the account.

- (ii) If the transfer under Subsection (3)(b)(i) would cause the balance in the account to exceed 11% of Education Fund appropriations for the fiscal year in which the Education Fund revenue surplus occurred, the Division of Finance shall transfer only those funds necessary to ensure that the balance in the account equals 11% of Education Fund appropriations for the fiscal year in which the revenue surplus occurred.
- (iii) The Division of Finance shall calculate the amount to be transferred under this Subsection (3)(b):
 - (A) before transferring from the Education Fund revenue surplus any other year-end contingency appropriations, year-end set-asides, or other year-end transfers required by law; and
 - (B) excluding any direct legislative appropriation made to the Education Fund Budget Reserve Account for the fiscal year.
- (c) For appropriations made by the Legislature to the Education Fund Budget Reserve Account, the Division of Finance shall treat those appropriations, unless specified otherwise in the appropriation, as replacement funds for appropriations made from the account if funds were appropriated from the account within the past 10 years and have not yet been replaced.
- (4) Notwithstanding Subsection (3), if, at the end of a fiscal year, the Division of Finance determines that an operating deficit exists, the Division of Finance may reduce the transfer to the Education Fund Budget Reserve Account by the amount necessary to eliminate the operating deficit.
- (5) The Legislature may appropriate money from the Education Fund Budget Reserve Account only to resolve an Education Fund budget deficit.
- (6) Interest generated from investments of money in the Education Fund Budget Reserve Account shall be deposited into the Education Fund.

Amended by Chapter 214, 2015 General Session