

**BUDGET RESERVE ACCOUNT AND MONEY
MANAGEMENT ACT AMENDMENTS**

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: Lloyd W. Frandsen

AN ACT RELATING TO THE BUDGET RESERVE ACCOUNT; AUTHORIZING THE BUDGET RESERVE ACCOUNT TO BE INVESTED IN CERTAIN COMMON AND PREFERRED STOCK AND BONDS; INCREASING THE BUDGET RESERVE ACCOUNT CAP; REQUIRING DEPOSIT OF INVESTMENT INCOME FROM THE BUDGET RESERVE ACCOUNT INTO THE UNIFORM SCHOOL FUND WHEN THE BUDGET RESERVE ACCOUNT REACHES ITS CAP; AND MAKING TECHNICAL CORRECTIONS.

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

AMENDS:

63-38-2.5, as last amended by Chapter 6, Laws of Utah 1996, Second Special Session

ENACTS:

51-7-12.3, Utah Code Annotated 1953

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

Section 1. Section **51-7-12.3** is enacted to read:

51-7-12.3. Deposit or investment of Budgetary Reserve Account -- Authorized deposits and investments -- Asset manager.

(1) Notwithstanding the requirements of Section 51-7-11, the principal of the Budget Reserve Account established by Section 63-38-2.5 shall be deposited or invested only in the following:

(a) any deposit or investment authorized by Section 51-7-11;

(b) equity securities, including common and preferred stock issued by corporations listed on a major securities exchange, in accordance with the following criteria applied at the time of investment:

28 (i) the treasurer may not invest more than 5%, determined on a cost basis, of the total
29 account assets in the securities of any one issuer;

30 (ii) the treasurer may not invest more than 25%, determined on a cost basis, of the total
31 account assets in a particular industry;

32 (iii) the treasurer may not invest more than 5%, determined on a cost basis, of the total
33 account assets in securities of corporations that have been in continuous operation for less than
34 three years;

35 (iv) the account may not hold in excess of 5% of the outstanding voting securities of any
36 one corporation; and

37 (v) at least 75% of the corporations in which investments are made under Subsection (1)(b)
38 must appear on the Standard and Poor's 500 Composite Stock Price Index;

39 (c) fixed-income securities, including bonds, notes, mortgage securities, zero coupon
40 securities and convertible securities issued by domestic corporations rated A or higher by Moody's
41 Investor's Service, Inc. or by Standard and Poor's Corporation in accordance with the following
42 criteria applied at the time of investment:

43 (i) the treasurer may not invest more than 5%, determined on a cost basis, of the total
44 account assets in the securities of any one issuer;

45 (ii) the treasurer may not invest more than 25%, determined on a cost basis, of the total
46 account assets in a particular industry;

47 (iii) the treasurer may not invest more than 5%, determined on a cost basis, of the total
48 account assets in securities of corporations that have been in continuous operation for less than
49 three years; and

50 (iv) the dollar-weighted average maturity of fixed-income securities acquired under
51 Subsection (1)(c) may not exceed ten years;

52 (d) fixed-income securities issued by agencies of the United States and
53 government-sponsored organizations, including mortgage-backed pass-through certificates and
54 mortgage-backed bonds;

55 (e) shares of an open-end diversified management investment company established under
56 the Investment Companies Act of 1940; and

57 (f) shares of or deposits in a pooled-investment program.

58 (2) (a) No more than 65% of the total account assets of any of these funds, on a cost basis,

59 may be invested in common or preferred stocks at any one time.

60 (b) At least 35% of the total assets of the total account assets shall be invested in
61 fixed-income securities authorized by Subsections (1)(a), (c), and (d).

62 (3) The state treasurer shall use appropriate investment strategies to protect the principal
63 of the funds administered under this section during periods of financial market volatility.

64 (4) (a) The state treasurer may employ professional asset managers to assist in the
65 investment of assets of the Budget Reserve Account.

66 (b) The treasurer may provide compensation to asset managers from earnings generated
67 by the accounts' investments.

68 (5) The council shall give suggestions, advice, and opinions to the state treasurer in regard
69 to this section.

70 Section 2. Section **63-38-2.5** is amended to read:

71 **63-38-2.5. Establishing a Budget Reserve Account -- Providing for deposits and**
72 **expenditures from the account.**

73 (1) There is created within the General Fund a restricted account to be known as the
74 Budget Reserve Account, which is designated to receive the surplus revenue required by this
75 section.

76 (2) (a) Beginning June 30, 1993, at the end of any fiscal year in which the Division of
77 Finance, in conjunction with the completion of the annual audit by the state auditor, determines
78 that there is a General Fund surplus, 25% of the surplus shall be transferred to the Budget Reserve
79 Account, except that the amount in the Budget Reserve Account may not exceed [8% of the
80 General Fund appropriation amount for the fiscal year in which the surplus occurred]
81 \$500,000,000.

82 (b) The amount to be transferred to the Budget Reserve Account shall be determined
83 before any other contingency appropriation using surplus funds.

84 (3) (a) Any appropriation made by the Legislature from the Budget Reserve Account may
85 only be used to cover operating deficits or retroactive tax refunds.

86 (b) The [Budgetary] Budget Reserve Account is available for appropriation to fund
87 operating deficits in public education appropriations.

88 (4) (a) [All interest generated from investments of money] The treasurer shall invest
89 monies in the Budget Reserve Account as required by Section 51-7-12.3.

90 (b) Except as provided in Subsection (4)(c), all interest generated from investments of
91 money in the Budget Reserve Account shall be deposited into the account.

92 (c) When the amount in the Budget Reserve Account reaches \$500,000,000, all interest
93 generated from investments of money in the Budget Reserve Account shall be deposited into the
94 Uniform School Fund.

Legislative Review Note
as of 1-28-00 8:57 AM

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

Office of Legislative Research and General Counsel