

**STATE ACCOUNTING STANDARDS**

2001 GENERAL SESSION

STATE OF UTAH

**Sponsor: Jeff Alexander**

**This act modifies statutes governing State Accounting Procedures. The act defines a new fund type within the governmental funds, and clarifies the definitions of enterprise and trust funds. The act makes technical corrections and provides an effective date.**

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

AMENDS:

- 9-4-303**, as last amended by Chapter 299, Laws of Utah 2000
- 9-4-701**, as last amended by Chapter 276, Laws of Utah 1998
- 9-4-702**, as last amended by Chapter 276, Laws of Utah 1998
- 9-10-102**, as enacted by Chapter 341, Laws of Utah 1995
- 9-11-104**, as enacted by Chapter 135, Laws of Utah 1996
- 51-5-3**, as last amended by Chapter 85, Laws of Utah 1993
- 51-5-4**, as last amended by Chapter 222, Laws of Utah 2000
- 51-5-8**, as last amended by Chapter 4, Laws of Utah 1993
- 63-38-3.5**, as last amended by Chapter 263, Laws of Utah 1999
- 63-38-6**, as enacted by Chapter 207, Laws of Utah 1969
- 63-38-8**, as last amended by Chapter 76, Laws of Utah 1994
- 63-38-8.1**, as last amended by Chapter 24, Laws of Utah 1999
- 63-65-4**, as last amended by Chapter 150, Laws of Utah 1997
- 63-88-102**, as last amended by Chapter 281, Laws of Utah 2000
- 73-10c-2**, as last amended by Chapter 282, Laws of Utah 2000
- 73-10c-4**, as last amended by Chapter 199, Laws of Utah 1996
- 73-10c-5**, as last amended by Chapter 282, Laws of Utah 2000
- 73-10c-6**, as last amended by Chapter 30, Laws of Utah 1992
- 73-10c-7**, as enacted by Chapter 354, Laws of Utah 1983
- 73-10c-9**, as last amended by Chapter 285, Laws of Utah 1992

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

Section 1. Section **9-4-303** is amended to read:

**9-4-303. Impact fund -- Deposits and contents -- Use of fund monies.**

(1) There is created an [~~internal service~~] enterprise fund entitled the "Permanent Community Impact Fund."

(2) The fund consists of:

(a) all amounts appropriated to the impact fund under Section 59-21-2;

(b) bonus payments deposited to the impact fund pursuant to Subsection 59-21-1(2);

(c) bonus payments deposited to the impact fund pursuant to Section 53C-3-202;

(d) all amounts received for the repayment of loans made by the impact board under this chapter; and

(e) all other monies appropriated or otherwise made available to the impact fund by the Legislature.

(3) The state treasurer shall:

(a) invest the monies in the impact fund by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act; and

(b) deposit all interest or other earnings derived from those investments into the impact fund.

(4) The amounts in the impact fund available for loans, grants, administrative costs, or other purposes of this part shall be limited to that which the Legislature appropriates for these purposes.

(5) Federal mineral lease revenue received by the state under the Leasing Act that is deposited into the impact fund shall be used:

(a) in a manner consistent with:

(i) the Leasing Act; and

(ii) this part; and

(b) for loans, grants, or both to state agencies or subdivisions that are socially or economically impacted by the leasing of minerals under the Leasing Act.

(6) Mineral lease revenue collected by the School and Institutional Trust Lands Administration from the lease of minerals on acquired lands or the lease of acquired mineral interests

that is deposited into the impact fund shall be used:

- (a) in a manner consistent with this part; and
- (b) for loans, grants, or both to state agencies or subdivisions socially or economically

impacted by the leasing of:

- (i) minerals on acquired lands; or
- (ii) acquired mineral interests.

Section 2. Section **9-4-701** is amended to read:

**9-4-701. Definitions.**

As used in this part:

- (1) "Board" means the Housing Board created by this part.
- (2) "Fund" means the Olene Walker Housing [~~Trust~~] Loan Fund [~~in the General Fund~~]

created by this part.

- (3) "Rural" means any county in the state other than Utah, Salt Lake, Davis, or Weber.

Section 3. Section **9-4-702** is amended to read:

**9-4-702. Creation and administration.**

(1) (a) There is created [~~a restricted account in the General Fund~~] an enterprise fund known as the Olene Walker Housing [~~Trust~~] Loan Fund, administered by the executive director or his designee.

- (b) The department shall be the [~~trustee~~] administrator of the fund.

(2) There shall be deposited into the fund:

(a) grants, paybacks, bonuses, entitlements, and other moneys received by the department from the federal government to preserve, rehabilitate, build, restore, or renew housing or other activities authorized by the fund;

(b) transfers, grants, gifts, bequests, or any money made available from any source to implement this part; and

- (c) moneys appropriated to the fund by the Legislature.

(3) The moneys in the fund shall be invested by the state treasurer according to the procedures and requirements of Title 51, Chapter 7, except that all interest or other earnings derived

from the fund moneys shall be deposited in the fund.

Section 4. Section **9-10-102** is amended to read:

**9-10-102. Legislative intent -- Uintah Basin Revitalization Fund -- Deposits and contents.**

(1) In order to maximize the long-term benefit of severance taxes derived from lands held in trust by the United States for the Tribe and its members by fostering funding mechanisms that will, consistent with sound financial practices, result in the greatest use of financial resources for the greatest number of citizens of the Uintah Basin, and in order to promote cooperation and coordination between the state, its political subdivisions, Indian tribes, and individuals, firms, and business organizations engaged in the development of oil and gas interests held in trust for the Tribe and its members, there is created [~~an enterprise~~] a special revenue fund entitled the "Uintah Basin Revitalization Fund."

(2) The fund consists of all monies deposited to the Revitalization Fund under this part and Section 59-5-116.

(3) (a) The Revitalization Fund shall earn interest.

(b) All interest earned on fund monies shall be deposited into the fund.

Section 5. Section **9-11-104** is amended to read:

**9-11-104. San Juan Navajo Revitalization Fund.**

(1) (a) There is created [~~an enterprise~~] a special revenue fund called the "Navajo Revitalization Fund."

(b) The fund shall consist of:

(i) monies deposited to the fund under this chapter;

(ii) monies deposited to the fund under Section 59-5-119; and

(iii) any loan repayment or interest on a loan issued under this chapter.

(2) (a) The revitalization fund shall earn interest.

(b) All interest earned on fund monies shall be deposited into the fund.

(3) Any unallocated balance in the fund at the end of a fiscal year shall be nonlapsing.

(4) The division may use fund monies for the administration of the fund, but this amount

may not exceed 2% of the annual receipts to the fund.

Section 6. Section **51-5-3** is amended to read:

**51-5-3. Definitions.**

As used in this chapter:

(1) "Account groups" means a self-balancing set of accounts used to establish accounting control and accountability for the state's general fixed assets and general long-term obligations.

(2) "Accrual basis" means the basis of accounting under which revenues are recorded when earned and expenditures are recorded when they result in liabilities for benefits received, even though the receipt of the revenue or payment of the expenditures may take place, in whole or in part, in another accounting period.

(3) "Activity" means a specific and distinguishable line of work performed by one or more organizational components of a governmental unit to accomplish a function for which the governmental unit is responsible.

(4) "Appropriation" means a legislative authorization to make expenditures and to incur obligations for specific purposes.

(5) "Budgetary accounts" means those accounts necessary to reflect budgetary operations and conditions, such as estimated revenues, appropriations, and encumbrances.

(6) "Cash basis" means the basis of accounting under which revenues are recorded when received in cash and expenditures are recorded when paid.

(7) "Dedicated credit" means:

(a) revenue that is required by law or by the contractual terms under which the revenue is accepted, to be expended for specified activities; and

(b) revenue that is appropriated by provisions of law to the department, institution, or agency that assessed the revenue, to be expended for the specified activities.

(8) "Encumbrances" means obligations in the form of purchase orders, contracts, or salary commitments that are chargeable to an appropriation and for which a part of the appropriation is reserved. Encumbrances cease when paid or when the actual liability is set up.

(9) (a) "Expenditures" means decreases in net financial resources from other than interfund

transfers, refundings of general long-term capital debt, and other items indicated by GASB.

(b) "Expenditures" may include current operating expenses, debt service, capital outlays, employee benefits, earned entitlements, and shared revenues.

(10) (a) "Financial resources" means assets that are obtained or controlled as a result of past transactions or events that in the normal course of operations will become cash.

(b) "Financial resources" includes cash, claims to cash such as taxes receivable, and claims to goods or services such as prepaids.

(11) "Fiscal period" means any period at the end of which a governmental unit determines its financial position and the results of its operations.

(12) "Function" means a group of related activities aimed at accomplishing a major service or regulatory program for which a governmental unit is responsible.

(13) "Fund" means an independent fiscal and accounting entity with a self-balancing set of accounts, composed of financial resources and other assets, all related liabilities and residual equities or balances and changes in those resources, assets, liabilities, and equities that, when recorded, are segregated for the purpose of carrying on specific activities or attaining certain objectives, according to special regulations, restrictions, or limitations.

(14) "Fund accounts" means all accounts necessary to set forth the financial operations and financial position of a fund.

(15) "GASB" means the Governmental Accounting Standards Board that is responsible for accounting standards used by public entities.

(16) (a) "Governmental fund" means funds used to account for the acquisition, use, and balances of expendable financial resources and related liabilities using a measurement focus that emphasizes the flow of financial resources.

(b) "Governmental fund" includes the following types: General Fund, special revenue funds, debt service funds, ~~and~~ capital projects funds, and permanent funds.

(17) "Lapse," as applied to appropriations, means the automatic termination of an unexpended appropriation.

(18) "Liabilities" are the probable future sacrifices of economic benefits, arising from present

obligations of a particular entity to transfer assets or provide services to other entities in the future.

(19) "Net financial resources" means:

(a) the difference between the amount of a governmental fund's financial resources and liabilities; and

(b) the fund balance of a governmental fund.

(20) "Postemployment" means that period of time following:

(a) the last day worked by an employee as a result of his long-term disability; or

(b) the date that an employee identifies as the date on which the employee intends to retire or terminate from state employment.

(21) "Postemployment benefits" means benefits earned by employees that will not be paid until postemployment, including unused vacation leave, unused converted sick leave, sick leave payments, and health and life insurance benefits as provided in Section 67-19-14.

(22) "Proprietary funds" means those funds or subfunds that show actual financial position and the results of operations, such as actual assets, liabilities, reserves, fund balances, revenues, and expenses.

(23) "Restricted revenue" means revenue that is required by law to be expended only:

(a) for specified activities; and

(b) to the amount of the legislative appropriation.

(24) "Revenue" means the increase in ownership equity during a designated period of time that is recognized as earned.

(25) "Subfund" means a restricted account, established within an independent fund, that has a self-balancing set of accounts to restrict revenues, expenditures, or the fund balance.

(26) "Surplus" means the excess of the assets of a fund over its liabilities and restricted fund equity.

(27) "Unappropriated surplus" means that portion of the surplus of a given fund that is not segregated for specific purposes.

(28) "Unrestricted revenue" means revenue of a fund that may be expended by legislative appropriation for functions authorized in the provisions of law that establish each fund.

Section 7. Section **51-5-4** is amended to read:

**51-5-4. Funds established -- Titles of funds -- Fund functions.**

- (1) (a) (i) The funds enumerated in this section are established as major fund types.
  - (ii) All resources and financial transactions of Utah state government shall be accounted for within one of these major fund types.
  - (b) (i) All funds or subfunds shall be consolidated into one of the state's major fund types.
  - (ii) Where a specific statute requires that a restricted fund be established, that fund shall be accounted for as an individual fund or subfund within the major fund type to meet generally accepted accounting principles.
  - (iii) Existing and new activities of state government authorized by the Legislature shall be accounted for within the framework of the major fund types established in this section.
  - (c) The Division of Finance shall determine the accounting classification that complies with generally accepted accounting principles for all funds or subfunds created by the Legislature.
  - (d) (i) Major fund types shall be added by amending this chapter.
  - (ii) Whenever a new act creates or establishes a fund without amending this chapter, the reference to a fund in the new act [~~means a subfund~~] shall be classified within one of the major fund types established by this section.
- (2) Major Fund Type Titles:
    - (a) General Fund;
    - (b) Special Revenue Funds;
    - (c) Capital Projects Funds;
    - (d) Debt Service Funds;
    - (e) Permanent Funds;
    - ~~(f)~~ (f) Enterprise Funds;
    - ~~(g)~~ (g) Internal Service Funds;
    - ~~(h)~~ (h) Trust and Agency Funds;
    - ~~(i)~~ (i) General Fixed Assets Account Group;
    - ~~(j)~~ (j) General Long-Term Obligation Account Group; and



~~[(j)]~~ (k) College and University Funds.

(3) The General Fund shall receive all revenues and account for all expenditures not otherwise provided for by law in any other fund.

(4) Special Revenue Funds ~~[shall]~~ account for proceeds of specific revenue sources, ~~[(other than [expendable trusts,] permanent funds, trust and agency funds, or major capital projects[?]), that are legally restricted to expenditures for a specific purpose.~~

(a) The Uniform School Fund is a Special Revenue Fund that ~~[shall account]~~ accounts for all revenues that are required by law to be expended for the public school programs of the state.

(b) The Transportation Fund is a Special Revenue Fund that ~~[shall account]~~ accounts for all revenues that are required by ~~[Article XIII, Sec. 13, Utah Constitution,]~~ law to be expended for highway purposes.

(5) Capital Projects Funds ~~[shall]~~ account for financial resources to be expended for the acquisition or construction of major capital facilities, except that when financing for the acquisition or construction of a major capital facility is obtained from a trust fund or a proprietary type fund within one of the major fund types, the monies shall be accounted for in those accounts.

(6) Debt Service Funds ~~[shall]~~ account for the accumulation of resources for, and the payment of, the principal and interest on general long-term obligations.

(7) Permanent Funds account for assets that are legally restricted to the extent that only earnings, and not principal, may be used for a specific purpose.

~~[(7) (a)]~~ (8) Enterprise Funds are designated to account for the following:

~~[(i)]~~ (a) operations, financed and operated in a manner similar to private business enterprises, where the Legislature intends that the costs of providing goods or services to the public are financed or recovered primarily through user charges; ~~[or]~~

~~[(ii)]~~ (b) operations where the Legislature requires periodic determination of revenues earned, expenses incurred, and net income~~[-];~~

~~[(b) The Alcoholic Beverage Control Fund is an Enterprise Fund that shall account for the state-controlled liquor merchandising operations.]~~

~~[(c) The Utah Housing Finance Agency Fund, the Utah Correctional Industries Fund, and~~

~~the Workers' Compensation Fund, are Enterprise Funds.]~~

(c) operations for which a fee is charged to external users for goods or services; or

(d) operations that are financed with debt that is secured solely by a pledge of the net revenues from fees and charges of the operations.

~~[(8)]~~ (9) Internal Service Funds ~~[shall]~~ account for the financing of goods or services provided by one department, division, or agency to other departments, divisions, or agencies of the state, or to other governmental units, on a cost-reimbursement basis.

~~[(9)]~~ (10) (a) Trust and Agency Funds ~~[shall]~~ account for assets held by the state as trustee or agent for individuals, private organizations, or other governmental units~~[-or other funds]~~.

(b) ~~[Expendable]~~ Pension Trust Funds, ~~[Nonexpendable]~~ Investment Trust Funds, Private-Purpose Trust Funds, and Agency Funds are Trust and Agency Funds.

~~[(i) The Retirement Systems Fund is a Trust Fund that shall account for resources received and held by the state as trustee for the state retirement systems established by the Utah School Employees' Retirement Act, the Utah Public Employees' Retirement Act, and the Firemen's Pension Act. Additional retirement systems that are established by the Legislature shall be included in the Retirement Systems Fund.]~~

~~[(ii) The State Land Principal Fund is a Nonexpendable Trust Fund that shall account for resources received by the state as trustee for land grants made in the Enabling Act of the state of Utah.]~~

~~[(10)]~~ (11) The General Fixed Assets Account Group ~~[shall account]~~ accounts for all fixed assets acquired or constructed for use by the state, except for the fixed assets accounted for in the Internal Service, Enterprise, Trust and Agency, and College and University Funds.

~~[(11)]~~ (12) The General Long-Term Obligation Account Group ~~[shall account]~~ accounts for general obligation bonds, revenue bonds, capital lease obligations, accrued annual and compensatory leave, and other long-term obligations not otherwise recorded in Internal Service, Enterprise, Trust and Agency, and College and University Funds.

~~[(12)]~~ (13) College and University Funds ~~[shall]~~ account for the financial resources used to operate the state's colleges and universities. ~~[They shall include the Current Funds, Fiduciary Funds,~~

and Plant Funds for each college and university.]

Section 8. Section **51-5-8** is amended to read:

**51-5-8. Construction of terms and provisions relating to funds in other statutes.**

(1) Direct or indirect references to the word "fund," or any other synonymous word contained

in the Utah Code Annotated 1953, that is used to identify a separate accounting entity, [~~shall mean~~] means a fund account or subfund except where that fund meets the definition of a major fund type according to generally accepted accounting principles.

(2) The following terms and all other terms similar in meaning, except when they meet the definition of a fund in accordance with generally accepted accounting principles, [~~shall~~] mean a subfund or account within the funds established by this chapter: "special funds"; "separate funds"; [~~"permanent funds";~~] "departmental funds"; "association funds"; "trust," such as "in trust" or "held in trust"; "deposits," such as "security deposits" or "certificates of deposit"; "reserves," such as "special reserves," "contingent reserves," and "reserve funds"; "accounts," such as "special accounts" or "clearing accounts"; and "collections," such as "departmental collections" or "dedicated credits."

(3) Provisions of law governing the assessment and collection of the state's various taxes, licenses, permits, fees, and other charges and provisions controlling the expenditures of those revenues remain in force and are undisturbed by the provisions of this chapter.

(4) Provisions of law that specify that the balance in a fund reverts or is closed out to another fund [~~shall mean~~] means that the balance in that fund reverts to the unappropriated surplus account of the governmental fund in which that fund is placed.

(5) Provisions of law that specify that the balance in a fund [~~shall~~] does not lapse or otherwise become part of the state General Fund [~~shall mean~~] means that the balance in that fund [~~shall~~] does not lapse or otherwise become part of the unappropriated surplus account of the fund in which that fund is placed.

Section 9. Section **63-38-3.5** is amended to read:

**63-38-3.5. Internal service funds -- Governance and review.**

(1) For purposes of this section:

(a) "Agency" means a department, division, office, bureau, or other unit of state government,

and includes any subdivision of an agency.

(b) "Internal service fund agency" means an agency that provides goods or services to other agencies of state government or to other governmental units on a capital maintenance and cost reimbursement basis, and which recovers costs through interagency billings.

(c) "Revolving loan fund" means each of the revolving loan funds defined in Section 63A-3-205.

(2) An internal service fund agency is not subject to this section with respect to its administration of a revolving loan fund.

(3) An internal service fund agency may not bill another agency for services that it provides, unless the Legislature has:

(a) reviewed and approved the internal service fund agency's budget request;

(b) reviewed and approved the internal service fund agency's rates, fees, and other amounts that it charges those who use its services and included those rates, fees, and amounts in an appropriation act;

(c) approved the number of full-time, permanent positions of the internal service fund agency

as part of the annual appropriation process; and

(d) appropriated to the internal service fund agency the internal service fund's estimated revenue based upon the rates and fee structure that are the basis for the estimate.

(4) (a) Except as provided in Subsection (4)(b), an internal service fund agency may not charge rates, fees, and other amounts that exceed the rates, fees, and amounts established by the Legislature in the appropriations act.

(b) (i) An internal service fund agency that begins a new service or introduces a new product between annual general sessions of the Legislature may establish and charge an interim rate or amount for that service or product.

(ii) The internal service fund agency shall submit that interim rate or amount to the Legislature for approval at the next annual general session.

(5) The internal service fund agency budget request shall separately identify the capital needs and the related capital budget.

(6) In the fiscal year that the accounting change referred to in Subsection 51-5-6(2) is implemented by the Division of Finance, the Division of Finance shall transfer equity created by that accounting change to any internal service fund agency up to the amount needed to eliminate any long-term debt and deficit working capital in the fund.

(7) No new internal service fund agency may be established unless reviewed and approved by the Legislature.

(8) (a) An internal service fund agency may not acquire capital assets unless legislative approval for acquisition of the assets has been included in an appropriations act for the internal service fund agency.

(b) An internal service fund agency may not acquire capital assets after the transfer mandated by Subsection (4) has occurred unless the internal service fund agency has adequate working capital.

(c) The internal service fund agency shall provide working capital from the following sources in the following order:

- (i) first, from operating revenues to the extent allowed by state rules and federal regulations;
- (ii) second, from long-term debt, subject to the restrictions of this section; and
- (iii) last, from an appropriation.

(d) (i) To eliminate negative working capital, an internal service fund agency may incur long-term debt from the General Fund or Special Revenue Funds to acquire capital assets.

(ii) The internal service fund agency shall repay all long-term debt borrowed from the General Fund or Special Revenue Funds by making regular payments over the useful life of the asset according to the asset's depreciation schedule.

(e) (i) The Division of Finance may not allow an internal service fund agency's borrowing to exceed 90% of the net book value of the agency's capital assets as of the end of the fiscal year.

(ii) If an internal service fund agency wishes to purchase authorized assets or enter into equipment leases that would increase its borrowing beyond 90% of the net book value of the agency's capital assets, the agency may purchase those assets only with monies appropriated from another fund, such as the General Fund or a special revenue fund.

(f) (i) Except as provided in Subsection (8)(f)(ii), capital assets acquired through agency

appropriation may not be transferred to any internal service fund agency without legislative approval.

(ii) Vehicles acquired by agencies, or monies appropriated to agencies for vehicle purchases, may be transferred to the Division of Fleet Operations and, when transferred, become part of the ~~[Consolidated]~~ Fleet Operations Internal Service Fund.

(9) The Division of Finance shall adopt policies and procedures related to the accounting for assets, liabilities, equity, revenues, expenditures, and transfers of internal service funds agencies.

Section 10. Section **63-38-6** is amended to read:

**63-38-6. Warrants -- Not to be drawn until claim processed -- Redemption.**

(1) No warrant to cover any claim against any appropriation or fund shall be drawn until such claim has been processed as provided by law.

(2) The state treasurer shall return all redeemed warrants to the state fiscal officer for purposes of reconciliation, post-audit and verification of the state treasurer's fund balances. ~~[The fiscal officer shall return all redeemed warrants to the state auditor for post-auditing and filing.]~~

Section 11. Section **63-38-8** is amended to read:

**63-38-8. End of fiscal year -- Unexpended balances -- Funds not to be closed out -- Pending claims -- Transfer of amounts from item of appropriation.**

(1) As used in this section, "transaction control number" means the unique numerical identifier established by the Department of Health to track each medical claim, which indicates the date upon which the claim is entered.

(2) On or before ~~[July]~~ August 31 of each fiscal year, the director of the Division of Finance shall close out to the proper fund or account all remaining unexpended and unencumbered balances of appropriations made by the Legislature, except:

(a) those funds classified under Title 51, Chapter 5, Funds Consolidation Act as:

- (i) enterprise funds;
- (ii) internal service funds;
- (iii) trust and agency funds;
- (iv) capital projects funds;
- (v) college and university funds; ~~[and]~~

- (vi) debt service funds; and
- (vii) permanent funds;
- (b) appropriations made to the Legislature and its committees;
- (c) acquisition and development funds appropriated to the Division of Parks and Recreation;
- (d) funds encumbered to pay purchase orders issued prior to May 1 for capital equipment if delivery is expected before June 30;
- (e) unexpended and unencumbered balances of appropriations that meet the requirements of Section 63-38-8.1; and
- (f) any other appropriations excepted by statute or by an annual appropriations act.

(3) (a) Liabilities and related expenses for goods and services received on or before June 30 shall be recognized as expenses due and payable from appropriations made prior to June 30.

(b) The liability and related expense shall be recognized within time periods established by the Division of Finance but shall be recognized not later than [~~July~~] August 31.

(c) Liabilities and expenses not so recognized may be paid from regular departmental appropriations for the subsequent fiscal year, if these claims do not exceed unexpended and unencumbered balances of appropriations for the years in which the obligation was incurred.

(d) No amounts may be transferred from an item of appropriation of any department, institution, or agency into the Capital Projects Fund or any other fund without the prior express approval of the Legislature.

(4) (a) For purposes of this chapter, claims processed under the authority of Title 26, Chapter 18, Medical Assistance Act, may not be considered a liability to the state for budgetary purposes until they are received by the Division of Health Care Financing.

(b) The transaction control number recorded on each claim invoice by the division is considered the date of receipt and is the date that liability is recognized by the state.

Section 12. Section **63-38-8.1** is amended to read:

**63-38-8.1. Nonlapsing authority.**

(1) As used in this section:

(a) (i) "Agency" means each department, commission, board, council, agency, institution,

officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(ii) "Agency" does not include those entities whose unappropriated and unencumbered balances are made nonlapsing by the operation of Subsection 63-38-8(2).

(b) "Appropriation balance" means the unexpended and unencumbered balance of a line item appropriation made by the Legislature to an agency that exists at the end of a fiscal year.

(c) "Nonlapsing" means that an agency's appropriation balance is not closed out to the appropriate fund at the end of a fiscal year as required by Section 63-38-8.

(d) "One-time project" means a project or program that can be completed with the appropriation balance and includes such items as employee incentive awards and bonuses, purchase of equipment, and one-time training.

(e) "One-time project's list" means:

(i) a prioritized list of one-time projects, upon which an agency would like to spend any appropriation balance; and

(ii) for each project, the maximum amount the agency is estimating for the project.

(f) "Program" means a service provided by an agency to members of the public, other agencies, or to employees of the agency.

(2) Notwithstanding the requirements of Section 63-38-8, an agency may:

(a) by following the procedures and requirements of this section, retain and expend any appropriation balance; and

(b) comply with the requirements of Subsections 63-9-67(2) and 63-38-18(2).

(3) (a) Each agency that wishes to preserve any part or all of its appropriation balance as nonlapsing shall include a one-time project's list as part of the budget request that it submits to the governor and the Legislature at the annual general session of the Legislature immediately before the end of the fiscal year in which the agency may have an appropriation balance.

(b) An agency may not include a proposed expenditure on its one-time project's list if:

(i) the expenditure creates a new program;

(ii) the expenditure enhances the level of an existing program; or



(iii) the expenditure will require a legislative appropriation in the next fiscal year.

(c) The governor:

(i) may approve some or all of the items from an agency's one-time project's list; and

(ii) shall identify and prioritize any approved one-time projects in the budget that he submits to the Legislature.

(4) The Legislature:

(a) may approve some or all of the specific items from an agency's one-time project's list as authorized expenditures of an agency's appropriation balance;

(b) shall identify any authorized one-time projects in the appropriate line item appropriation; and

(c) may prioritize one-time projects in intent language.

~~[(5) The Legislative Fiscal Analyst shall:]~~

~~[(a) conduct a study of the nonlapsing authority granted in this section and its effects on the budget, the budget process, the source of or reason for the appropriation balance, and the legislative appropriations power; and]~~

~~[(b) report the analysis and any recommendations to the Legislative Management Committee and Interim Appropriations Committee by October 1, 1996.]~~

Section 13. Section **63-65-4** is amended to read:

**63-65-4. Custodial officer -- Powers and duties.**

(1) There is created within the Division of Finance an officer responsible for the care, custody, safekeeping, collection, and accounting of all bonds, notes, contracts, trust documents, and other evidences of indebtedness owned by:

(a) the state or any of its agencies; and

(b) revolving loan funds except the:

(i) Agriculture Resource Development Fund, created in Section 4-18-6;

(ii) Utah Rural Rehabilitation Fund, created in Section 4-19-4;

(iii) Petroleum Storage Tank Loan Fund, created in Section 19-6-405.3; and

(iv) Olene Walker Housing ~~[Trust]~~ Loan Fund, created in Section 9-4-702.

(2) (a) Each authorizing agency shall deliver to this officer for his care, custody, safekeeping, collection, and accounting all bonds, notes, contracts, trust documents, and other evidences of indebtedness owned by:

(i) the state or any of its agencies; and

(ii) revolving loan funds.

(b) This officer shall:

(i) establish systems, programs, and facilities for the care, custody, safekeeping, collection, and accounting for the bonds, notes, contracts, trust documents, and other evidences of indebtedness submitted to him under this Subsection (2); and

(ii) shall make available updated reports to each authorizing agency as to the status of loans under their authority.

(3) The officer described in Section 63-65-3 shall deliver to this officer for his care, custody, safekeeping, collection, and accounting all bonds, notes, contracts, trust documents, and other evidences of indebtedness closed as provided in Subsection 63-65-3(2)(b).

Section 14. Section **63-88-102** is amended to read:

**63-88-102. Trust Fund -- Creation -- Oversight.**

(1) There is created [~~an expendable~~] a private-purpose trust fund entitled the "Navajo Trust Fund."

(2) The fund consists of:

(a) revenues received by the state that represent the 37-1/2% of the net oil royalties from the Aneth Extension of the Navajo Indian Reservation required by P.L. 72-403, 47 Stat. 1418, to be paid to the state;

(b) monies received by the trust administrator or Dineh Committee from any contracts executed by:

(i) the trust administrator;

(ii) the board; or

(iii) the Dineh Committee;

(c) appropriations made to the fund by the Legislature, if any;

- (d) income as defined in Subsection 63-88-101(9); and
- (e) other revenues received from other sources.
- (3) The Division of Finance shall account for the receipt and expenditures of fund monies.
- (4) (a) The state treasurer shall invest fund monies by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act.
  - (b) (i) The fund shall earn interest.
  - (ii) The state treasurer shall deposit all interest or other revenue earned from investment of the fund back into the fund.
- (5) The state auditor shall:
  - (a) conduct an annual audit of the fund's finances, internal controls, and compliance with statutes, rules, policies, and regulations according to the procedures and requirements of Title 67, Chapter 3, Auditor; and
  - (b) deliver a copy of that audit report to the:
    - (i) board;
    - (ii) trust administrator;
    - (iii) Dineh Committee;
    - (iv) Office of Legislative Research and General Counsel for presentation to the Native American Legislative Liaison Committee, created in Section 36-22-1;
    - (v) governor's office;
    - (vi) Division of Indian Affairs;
    - (vii) U.S. Bureau of Indian Affairs;
    - (viii) Navajo Nation; and
    - (ix) U.S. Secretary of the Interior.

Section 15. Section **73-10c-2** is amended to read:

**73-10c-2. Definitions.**

As used in this chapter:

- (1) "Board" means the Board of Water Resources of the Department of Natural Resources.
- (2) "Council" means the Water Development Coordinating Council created pursuant to

Section 63-34-3, and this chapter.

(3) "Credit enhancement agreement" means any agreement entered into under this chapter between the Drinking Water Board or Water Quality Board, on behalf of the state, and a political subdivision, for the purpose of providing methods and assistance to political subdivisions to improve the security for and marketability of drinking water project obligations and wastewater project obligations.

(4) "Drinking Water Board" means the Drinking Water Board created in Title 19, Chapter 4, Safe Drinking Water Act.

(5) "Drinking water or wastewater project obligation" means, as appropriate, any bond, note, or other obligation of a political subdivision issued to finance all or part of the cost of acquiring, constructing, expanding, upgrading, or improving a drinking water project or wastewater project.

(6) "Drinking water project" means any work or facility necessary or desirable to provide water for human consumption and other domestic uses, which has at least 15 service connections or serves an average of 25 individuals daily for at least 60 days of the year and includes collection, treatment, storage, and distribution facilities under the control of the operator and used primarily with the system and collection pretreatment or storage facilities used primarily in connection with the system but not under its control.

(7) "Financial assistance programs" means the various programs administered by the state whereby loans, grants, and other forms of financial assistance are made available to political subdivisions of this state to finance the costs of water and wastewater projects.

(8) "Hardship Grant Assessment" means the charge the Water Quality Board or Drinking Water Board assesses to recipients of loans under Subsection 73-10c-5(2)(b) or 73-10c-5(3)(b) in lieu of or in addition to interest charged on these loans.

(9) "Nonpoint source project" means any facility, system, practice, or mechanism to abate, prevent, or reduce pollution of waters of this state caused by nonpoint sources.

(10) "Political subdivision" means any county, city, town, improvement district, water conservancy district, special service district, drainage district, metropolitan water district, irrigation district, separate legal or administrative entity created under Title 11, Chapter 13, Interlocal

Cooperation Act, or any other entity constituting a political subdivision under the laws of this state.

(11) "Security [~~account~~] fund" means the Water Development Security [~~Account within the General~~] Fund created by this chapter.

(12) "Wastewater project" means any sewer, storm or sanitary sewage system, sewage treatment facility, lagoon, sewage collection facility and system, and related pipelines, and all similar systems, and works, and facilities necessary or desirable to collect, hold, cleanse, or purify any sewage or other polluted waters of this state.

(13) "Waters of this state" means any stream, lake, pond, marsh, watercourse, waterway, well, spring, irrigation system, drainage system, or other body or accumulation of water whether surface, underground, natural, artificial, public, private, or other water resource of the state which is contained within or flows in or through the state.

(14) "Water Quality Board" means the Water Quality Board created in Title 19, Chapter 5, Water Quality Act.

Section 16. Section **73-10c-4** is amended to read:

**73-10c-4. Credit enhancement and interest buy-down agreements -- Loans -- Hardship grants.**

(1) On behalf of the state, the Water Quality Board and the Drinking Water Board may each enter into credit enhancement agreements with political subdivisions containing terms and provisions the acting board determines will reasonably improve the security for or marketability of drinking water and wastewater project obligations, including any of the following:

(a) a term providing security for drinking water and wastewater project obligations, as provided in Subsection 73-10c-6(2)(b), by agreeing to purchase the drinking water or wastewater project obligations of, or to make loans to, political subdivisions from a subaccount of the security [~~account~~] fund for the purpose of preventing defaults in the payment of principal and interest on drinking water and wastewater project obligations;

(b) a term making loans to political subdivisions to pay the cost of obtaining:

(i) letters of credit from banks, savings and loan institutions, insurance companies, or other financial institutions;

(ii) municipal bond insurance; or

(iii) other forms of insurance or security to provide security for drinking water and wastewater project obligations; and

(c) a term providing other methods and assistance to political subdivisions which are reasonable and proper to enhance the marketability of or security for drinking water and wastewater project obligations.

(2) (a) The Drinking Water Board and the Water Quality Board may each make loans from a security [account] fund subaccount to political subdivisions to finance all or part of drinking water and wastewater project costs using the procedures established under Sections 73-10b-5, 73-10b-6, 73-10g-4, and 73-10g-5, as applicable.

(b) These loans may only be made after credit enhancement agreements, interest buy-down agreements, and all other financing alternatives have been evaluated by the acting board and the board determines those options are unavailable or unreasonably expensive for the subdivision requesting assistance.

(c) Loans may be made from the security [account] fund subaccount at interest rates determined by the board.

(d) Loans may not be made from the \$5,000,000 appropriated to the security [account] fund subaccount by the Legislature for fiscal year 1983-84.

(3) The Drinking Water Board and the Water Quality Board may each make loans or grants from the security [account] fund to political subdivisions for interest buy-down agreements for drinking water or wastewater project obligations.

(4) (a) Of the total amount of money annually available to the Drinking Water Board and Water Quality Board for financial assistance to political subdivisions, at least 10% shall be allocated by each board for credit enhancement and interest buy-down agreements.

(b) The requirement specified in Subsection (4)(a) shall apply only so long as sales and use tax is transferred to the Utah Wastewater Loan Program Subaccount and Drinking Water Loan Program Subaccount as provided in Section 59-12-103.

(5) To the extent money is available in the hardship grant subaccounts of the security

[account] fund, the Drinking Water Board and the Water Quality Board may each make grants to political subdivisions that meet the drinking water or wastewater project loan considerations respectively, but whose projects are determined by the granting board to not be economically feasible unless grant assistance is provided.

(6) The Drinking Water and Water Quality Boards may at any time transfer money out of their respective hardship grant subaccounts of the security [account] fund to their respective loan program subaccounts.

Section 17. Section **73-10c-5** is amended to read:

**73-10c-5. Water Development Security Fund created -- Water Quality Security and Drinking Water Security Subaccounts created -- Use -- Revolving loan funds -- Hardship grants.**

(1) There is established [~~a restricted account within the General Fund~~] an enterprise fund known as the Water Development Security [~~Account~~] Fund which includes the Water Quality Security Subaccount and the Drinking Water Security Subaccount.

(2) The Water Quality Security Subaccount consists of three subaccounts:

(a) the Utah Wastewater Loan Program Subaccount, which consists of:

(i) money appropriated to the subaccount by the Legislature;

(ii) money received from the repayment of the principal of loans made by the Water Quality Board under Sections 73-10b-5, 73-10c-4, 73-10c-6, 73-10g-4, and 73-10h-4 from the Utah Wastewater Loan Program Subaccount;

(iii) except for payments, if any, necessary to comply with Section 148(f), Internal Revenue Code of 1986, income earned after June 30, 1984, on proceeds of bonds authorized by Sections 73-10b-5, 73-10g-4, and 73-10h-4; and

(iv) money deposited in the subaccount under any other law;

(b) the Utah State Revolving Fund for Wastewater Projects Subaccount, which consists of:

(i) money appropriated to the subaccount by the Legislature;

(ii) money received from the Utah Wastewater Loan Program Subaccount applied to meet match requirements for federal funds under 33 U.S.C.A. 1251 et seq., federal Clean Water Act;

- (iii) money received from the repayment of loans made by the Water Quality Board under Section 73-10c-4 from the Utah State Revolving Fund for Wastewater Projects Subaccount;
  - (iv) money received from the repayment of loans made by the Water Quality Board under Section 73-10c-4.5;
  - (v) money deposited in the subaccount under any other law;
  - (vi) money received under and subject to the restrictions of 33 U.S.C.A. 1251 et seq., federal Clean Water Act, and which is eligible for use in state revolving loan funds established to meet the requirements of the act; and
  - (vii) all investment income derived from money in the Utah State Revolving Fund for Wastewater Projects Subaccount; and
- (c) the Hardship Grant Program for Wastewater Projects Subaccount, which consists of:
    - (i) money appropriated to the subaccount by the Legislature;
    - (ii) money received as interest payments on loans made by the Water Quality Board under Sections 73-10b-5, 73-10c-4, 73-10c-6, 73-10g-4, and 73-10h-4, from the Utah Wastewater Loan Program Subaccount;
    - (iii) money deposited in the subaccount under any other law;
    - (iv) the Hardship Grant Assessment charged to State Revolving Fund loan recipients; and
    - (v) all investment income derived from money in the Utah Wastewater Loan Program Subaccount or the Hardship Grant Program for Wastewater Projects Subaccount.
- (3) The Drinking Water Security Subaccount consists of three subaccounts:
    - (a) the Drinking Water Loan Program Subaccount, which consists of:
      - (i) money appropriated to the subaccount by the Legislature;
      - (ii) money received from the repayment of the principal of loans made by the Drinking Water Board under Sections 73-10b-6, 73-10c-4, 73-10c-6, 73-10g-5, and 73-10h-5, from the Drinking Water Loan Program Subaccount;
      - (iii) except for payments, if any, necessary to comply with Section 148(f), Internal Revenue Code of 1986, income earned after June 30, 1984, on proceeds of bonds authorized by Sections 73-10b-6, 73-10g-5, and 73-10h-5; and



- (iv) money deposited in the subaccount under any other law;
- (b) the State Revolving Fund for Drinking Water Projects Subaccount, which consists of:
  - (i) money appropriated to the subaccount by the Legislature;
  - (ii) money received from the Utah Drinking Water Loan Program Subaccount and applied to meet match requirements for federal funds under 42 U.S.C.A. 300f et seq., federal Safe Drinking Water Act;
  - (iii) money received from the repayment of loans made by the Drinking Water Board under Section 73-10c-4 from the State Revolving Fund for Drinking Water Projects Subaccount;
  - (iv) money deposited in the subaccount under any other law;
  - (v) money received under and subject to the restrictions of 42 U.S.C.A. 300f et seq., federal Safe Drinking Water Act, and which is eligible for use in state revolving loan funds established to meet the requirements of the act; and
  - (vi) all investment income derived from money in the State Revolving Fund for Drinking Water Projects Subaccount; and
- (c) the Hardship Grant Program for Drinking Water Projects Subaccount, which consists of:
  - (i) money appropriated to the subaccount by the Legislature;
  - (ii) money received from interest payments on loans made by the Drinking Water Board under Sections 73-10b-6, 73-10c-4, 73-10c-6, 73-10g-5, and 73-10h-5, from the Drinking Water Loan Program Subaccount;
  - (iii) money deposited in the subaccount under any other law;
  - (iv) the Hardship Grant Assessment charged to State Revolving Fund loan recipients; and
  - (v) all investment income derived from money in the Drinking Water Loan Program Subaccount or the Hardship Grant Program for Drinking Water Projects Subaccount.
- (4) State monies in the Water Quality Security Subaccount and the Drinking Water Security Subaccount may be applied to meet match requirements for federal funds under 33 U.S.C.A. 1251 et seq., federal Clean Water Act and 42 U.S.C.A. 300f et seq., federal Safe Drinking Water Act.
- (5) If the money in the security [~~account~~] fund is insufficient for the purposes for which the security [~~account~~] fund is established, the council shall ask the governor to request the Legislature

to appropriate additional money to the account.

(6) (a) The Drinking Water Board and Water Quality Board may use the money in the appropriate security [account] fund subaccount only to the extent of the money available in the account, for the support of drinking water projects and wastewater projects in accordance with the terms of credit enhancement agreements, grant agreements, and loan agreements.

(b) Repayments to the security [account] fund from loans made by the acting board, monies allocated by the Legislature, and interest accrued on these monies shall remain available for use by that board for further project funding.

(7) Funds received under Section 1452 of the federal Safe Drinking Water Act, 42 U.S.C.A. 300f et seq., may be used for providing financial assistance to community water systems and nonprofit noncommunity water systems as defined and within the limits of that act.

Section 18. Section **73-10c-6** is amended to read:

**73-10c-6. Credit enhancement agreement -- Provisions for use of funds.**

(1) (a) A credit enhancement agreement may be made for the purpose of facilitating financing for political subdivisions.

(b) A credit enhancement agreement may provide for the use of funds from the security [account] fund to accomplish the purposes specified in Section 73-10c-4.

(2) (a) The political subdivision, prior to the sale or issuance of a drinking water or a wastewater project obligation, shall:

(i) apply to the Drinking Water Board or Water Quality Board to have its drinking water or wastewater project obligation or both, as desired, designated as covered by a credit enhancement agreement; and

(ii) have entered into a credit enhancement agreement with the Drinking Water Board or Water Quality Board setting forth the terms and conditions of the security or other forms of assistance provided by the agreement.

(b) The Drinking Water Board and Water Quality Board may not designate any drinking water or wastewater project obligation as covered by the credit enhancement agreement:

(i) unless immediately after the designation there is on deposit in the security [account] fund,

based on the purchase or then market price of the investments therein, whichever is lower, an amount determined by the Drinking Water Board or Water Quality Board to be sufficient to:

(A) reasonably improve the security for and marketability of the drinking water or wastewater project obligation, or both; and

(B) comply with the terms and provisions of all existing credit enhancement agreements; and

(ii) while held by the state, any agency of the state, the federal government, or any agency of the federal government.

(c) A drinking water project obligation may not be designated as covered by a credit enhancement agreement unless the drinking water project for which it was issued by the political subdivision has been approved by the Department of Environmental Quality, acting through the Drinking Water Board.

(d) A wastewater project obligation may not be designated as secured by a credit enhancement unless the wastewater project for which it was issued by the political subdivision has been approved by the Department of Environmental Quality, acting through the Water Quality Board.

(3) (a) A credit enhancement agreement must provide that the security provided under this chapter and the credit enhancement agreement:

(i) is limited to the money available in the security [account] fund; and

(ii) does not constitute a pledge of or charge against the general revenues, credit, or taxing powers of the state or any political subdivision.

(b) A credit enhancement agreement which obligates the state to pay principal of or interest on any drinking water or wastewater project obligation, including any credit enhancement agreement entered into under Section 73-10c-4, may provide that:

(i) the political subdivision or its agent will notify the council whenever it is not able to pay principal of or interest on the drinking water or wastewater project obligation covered by the credit enhancement agreement and request payment from the security [account] fund; and

(ii) money in the security [account] fund needed to make the payment requested by the political subdivision may be segregated within the security [account] fund and held until the

requested payment is made.

(c) A default of the political subdivision under the drinking water or wastewater project obligation may not alter, in any manner, the obligations of the state as provided in the credit enhancement agreement.

(d) Any drinking water or wastewater project obligation covered by the credit enhancement agreement which is represented by a bond, note, or other written instrument shall bear a legend which states these provisions and makes reference to this chapter and the credit enhancement agreement pursuant to which the obligation is secured.

(4) Any credit enhancement agreement for a drinking water or wastewater project obligation may provide that the Drinking Water Board or Water Quality Board:

(a) purchase from the money in the security [~~account~~] fund the obligation which the political subdivision is unable to pay, whereupon the Drinking Water Board or Water Quality Board, on behalf of the state, will become the holder of the obligation and entitled to all rights of a holder under the terms of the obligation;

(b) pay, as a loan to the political subdivision from the money in the security [~~account~~] fund, to the holder of the obligation the principal or interest, or both, due or to become due on the obligation which the political subdivision is unable to pay;

(c) take both actions referred to in Subsections (4)(a) and (b) relating to any issue of obligations; or

(d) take any other action specified in or contemplated by the credit enhancement agreement.

(5) (a) Any credit enhancement agreement must require that the political subdivision repay to the state any loan of money made from the security [~~account~~] fund to make any payments specified in the credit enhancement agreement, which repayment obligation may also be evidenced by bonds or notes of the political subdivision, as the Drinking Water Board or Water Quality Board may determine.

(b) The loan may be for a term, may bear interest at a rate or rates or may bear no interest, as the Drinking Water Board or Water Quality Board may determine, and may be secured by any security the Drinking Water Board or Water Quality Board may determine.

(c) The interest rate for any loan contemplated by, but not made at the time the credit enhancement agreement is executed, may be specified in relationship to a prime rate or other identifiable rate existing at the time the loan is made.

(d) The term of the loan may be specified in the credit enhancement agreement as a maximum term and the actual term stated when the loan is made.

(e) Any security for the loan may include:

(i) a pledge of the revenues from the particular drinking water project or wastewater project;

(ii) an assignment from the holder or holders of the drinking water or wastewater project obligation of the holders' interest in any security for the obligation in the amount needed to service the indebtedness represented by the loan; or

(iii) any other security device.

(f) The Drinking Water Board or Water Quality Board, on behalf of the state, is subrogated to all rights of the holder of the drinking water or wastewater project obligation against the political subdivision which issued the obligation with respect to the collection of the amount of the loan, but the state is not relieved by this subrogation from its obligation to make payments from the security ~~[account]~~ fund as provided in its credit enhancement agreement with the political subdivision.

(6) Prior to entering into a credit enhancement agreement, the Drinking Water Board or Water Quality Board shall obtain an opinion of counsel experienced in bond matters to the effect that the drinking water or wastewater project obligation to be purchased or with respect to which a loan is to be made, is a valid and binding obligation of the political subdivision which issued it.

(7) Prior to making any payment under the credit enhancement agreement, the Drinking Water Board or Water Quality Board shall:

(a) verify the correctness of the information in any notification referred to in Subsection (3);  
and

(b) determine that funds in the security ~~[account]~~ fund are adequate to purchase the drinking water or wastewater project obligations or to make any loan of funds provided by the credit enhancement agreement.

Section 19. Section **73-10c-7** is amended to read:

**73-10c-7. Use of deposits in security fund.**

All money and investments [~~from time to time~~] on deposit in the security [~~account~~] fund shall be held for the purposes for which the security [~~account~~] fund is established, as provided in this chapter, and [~~shall~~] may not be used for any other purpose.

Section 20. Section **73-10c-9** is amended to read:

**73-10c-9. Investments of money in security fund.**

(1) Unless otherwise required to preserve the exemption of any obligations of the state from federal taxation, the state treasurer shall invest the money in the security [~~account~~] fund by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act.

(2) If necessary to preserve the exemption of any obligations of the state from federal taxation, the board may make investments in any manner necessary to preserve this exemption.

Section 21. **Effective date.**

This act takes effect on July 1, 2001.