

1 **BUDGET RESERVE ACCOUNT AMENDMENTS**

2 2003 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Craig W. Buttars**

5 **This act modifies the State Affairs in General title by changing the structure and**
6 **statutory cap of the Budget Reserve Account. The act provides for an Education Budget**
7 **Reserve Account. The act makes technical corrections.**

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

9 AMENDS:

10 **9-2-1204**, as last amended by Chapter 242, Laws of Utah 2000

11 **40-6-14.5**, as last amended by Chapter 8, Laws of Utah 2000

12 **53A-17a-144**, as last amended by Chapter 6, Laws of Utah 1996, Second Special
13 Session

14 **63-38-2.5**, as last amended by Chapter 321, Laws of Utah 2002

15 **63-38c-103**, as last amended by Chapter 332, Laws of Utah 2000

16 ENACTS:

17 **63-38-2.6**, Utah Code Annotated 1953

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

19 Section 1. Section **9-2-1204** is amended to read:

20 **9-2-1204. Loans and assistance -- Repayment -- Credits.**

21 (1) (a) A company that qualifies under Section 9-2-1205 may receive loans or other
22 financial assistance from the fund for expenses related to establishment, relocation, or
23 development of industry in Utah.

24 (b) A company creating an economic impediment that qualifies under Section
25 9-2-1205.5 may in accordance with this part receive loans or other financial assistance from the
26 fund for the expenses of the company creating an economic impediment related to:

27 (i) relocation to a rural area in Utah of the company creating an economic impediment;



28 and

29 (ii) the siting of a replacement company.

30 (2) (a) Subject to Subsection (2)(b), the administrator shall have the authority to
31 determine the structure, amount, and nature of any loan or other financial assistance from the
32 fund.

33 (b) The form of financial assistance determined under Subsection (2)(a) shall be
34 structured so the intended repayment or return to the state, including cash or credit, equals at
35 least the amount of the assistance together with an annual interest rate of 10%.

36 (3) (a) (i) Except as provided in Subsection (3)(b), the administrator may provide for a
37 system of credits that may be used in lieu of cash repayment of a fund loan.

38 (ii) The value of the credits described in Subsection (3)(a)(i) shall be based on factors
39 determined by the administrator, including:

40 (A) the number of Utah jobs created;

41 (B) the increased economic activity in Utah; and

42 (C) other events and activities that occur as a result of the fund loan.

43 (b) (i) The administrator shall provide for a system of credits to be used in lieu of cash
44 repayment of a fund loan that is issued to a company creating an economic impediment.

45 (ii) The value of the credits described in Subsection (3)(b)(i) shall be based on factors
46 determined by the administrator, including:

47 (A) the number of Utah jobs created;

48 (B) the increased economic activity in Utah; and

49 (C) other events and activities that occur as a result of the fund loan.

50 (4) (a) If loan repayments are in cash, the repayments shall be deposited, including any
51 interest, into the fund.

52 (b) If the repayments are in the form of credits as provided in Subsection (3), the
53 administrator and the Division of Finance shall determine the manner of recognizing and
54 accounting for the credits.

55 (5) At the end of each fiscal year, after the transfer of surplus General Fund revenues
56 has been made to the General Fund Budget Reserve Account as provided in Section 63-38-2.5,
57 any additional unrestricted, undesignated General Fund balance, except the first \$10,000,000 of
58 additional unrestricted, undesignated General Fund balance on June 30, 1992, shall be

59 earmarked to the Industrial Assistance Fund in an amount equal to any credit that has accrued
60 under this part. These credit amounts may not be used for purposes of the fund as provided in
61 this part until appropriated by the Legislature.

62 Section 2. Section **40-6-14.5** is amended to read:

63 **40-6-14.5. Oil and Gas Conservation Account created -- Contents -- Use of**
64 **account monies.**

65 (1) There is created within the General Fund a restricted account known as the Oil and
66 Gas Conservation Account.

67 (2) The contents of the account shall consist of:

68 (a) revenues from the fee levied under Section 40-6-14, including any penalties or
69 interest charged for delinquent payments; and

70 (b) interest and earnings on account monies.

71 (3) Account monies shall be used to pay for the:

72 (a) administration of this chapter; and

73 (b) plugging and reclamation of abandoned oil or gas wells or bore, core, or
74 exploratory holes for which:

75 (i) there is no reclamation surety; or

76 (ii) the forfeited surety is insufficient for plugging and reclamation.

77 (4) Priority in the use of the monies shall be given to paying for the administration of
78 this chapter.

79 (5) Appropriations for plugging and reclamation of abandoned oil or gas wells or bore,
80 core, or exploratory holes shall be nonlapsing.

81 (6) The balance of the Oil and Gas Conservation Account at the end of a fiscal year
82 may not exceed \$750,000. Any excess monies shall be transferred to the General Fund.

83 (7) (a) As used in this Subsection (7), "excess fee revenue" means revenue collected in
84 fiscal year 1999-2000 from the fee levied under Section 40-6-14 that exceeds the fee revenue
85 appropriated to the Division of Oil, Gas, and Mining in fiscal year 1999-2000.

86 (b) If there is a General Fund surplus for fiscal year 1999-2000, the Division of Finance
87 shall transfer General Fund surplus monies to the Oil and Gas Conservation Account in an
88 amount up to the excess fee revenue.

89 (c) The transfer provided in Subsection (7)(b) shall be made after General Fund surplus

90 monies are transferred to the General Fund Budget Reserve Account pursuant to Section
91 63-38-2.5.

92 Section 3. Section **53A-17a-144** is amended to read:

93 **53A-17a-144. Contribution of state to cost of minimum school program --**
94 **Determination of amounts -- Levy on taxable property -- Disbursal -- Deficiency.**

95 The state's contribution to the total cost of the minimum school program is determined
96 and distributed as follows:

97 (1) Prior to June 16 of each year, the State Board of Education shall determine the
98 estimated total cost of the minimum school program for each school district for the next school
99 year.

100 (a) The board shall certify this cost to the State Tax Commission, the Division of
101 Finance, and the state auditor.

102 (b) The certified report shall include the estimated number of units, the cost of the
103 minimum program for each district as determined with the district, and the amount of any
104 deficiency in the state's contribution to the minimum school program for the current and the
105 preceding years.

106 (2) The State Tax Commission shall levy an amount determined by the Legislature on
107 all taxable property of the state.

108 (a) This amount, together with other funds provided by law, is the state's contribution
109 to the minimum school program.

110 (b) The statewide levy is set at zero until changed by the Legislature.

111 (3) During the first week in November, the State Tax Commission shall certify to the
112 State Board of Education the amounts designated as state aid for each district under Section
113 59-2-902.

114 (4) (a) The actual amounts computed under Section 59-2-902 are the state's
115 contribution to the minimum school program of each district.

116 (b) The state board shall provide each district with a statement of the amount of state
117 aid.

118 (5) Prior to the first day of each month, the state treasurer and the Division of Finance,
119 with the approval of the State Board of Education, shall disburse 1/12 of the state's contribution
120 to the cost of the minimum school program to each school district.

121 (a) A disbursement may not be made to a district whose payments have been
122 interrupted under Subsection (5)(d).

123 (b) Discrepancies between the monthly disbursements and the actual cost of the
124 program shall be adjusted in the final settlement under Subsection (6).

125 (c) If the monthly distributions overdraw the money in the Uniform School Fund, the
126 Division of Finance is authorized to run this fund in a deficit position.

127 (d) The state board may interrupt disbursements to a district if, in the judgment of the
128 board, the district is failing to comply with the minimum school program, is operating
129 programs that are not approved by the state board, or has not submitted reports required by law
130 or the state board.

131 (i) Disbursements shall be resumed upon request of the state board.

132 (ii) Back disbursements shall be included in the next regular disbursement, and the
133 amount disbursed certified to the State Division of Finance and state treasurer by the state
134 board.

135 (e) The State Board of Education may authorize exceptions to the 1/12 per month
136 disbursement formula for grant funds if the board determines that a different disbursement
137 formula would better serve the purposes of the grant.

138 (6) (a) If monies in the Uniform School Fund are insufficient to meet the state's
139 contribution to the minimum school program as appropriated, the amount of the deficiency thus
140 created shall be carried as a deficiency in the Uniform School Fund until the next session of the
141 Legislature, at which time the Legislature shall appropriate funds to cover the deficiency.

142 (b) If there is an operating deficit in public education Uniform School Fund
143 appropriations, the Legislature shall eliminate the deficit by:

144 (i) budget transfers or other legal means;

145 (ii) appropriating money from the Education Budget Reserve Account;

146 [~~(ii)~~] (iii) appropriating up to 25% of the balance in the [Budgetary] General Fund
147 Budget Reserve Account; or

148 [~~(iii)~~] (iv) some combination of Subsections (6)(b)(i) [~~and~~], (ii), and (iii).

149 (c) Nothing in Subsection (6)(b) precludes the Legislature from appropriating more
150 than 25% of the balance in the [Budgetary] General Fund Budget Reserve Account to fund
151 operating deficits in public education appropriations.

152 Section 4. Section **63-38-2.5** is amended to read:

153 **63-38-2.5. Establishing a General Fund Budget Reserve Account -- Providing for**
 154 **deposits and expenditures from the account.**

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

158 (2) (a) (i) At the end of any fiscal year in which the Division of Finance, in conjunction
 159 with the completion of the annual audit by the state auditor, determines that there is a General
 160 Fund surplus, 25% of the surplus shall be transferred to the General Fund Budget Reserve
 161 Account, except that the amount in the combined totals of the General Fund Budget Reserve
 162 Account and the Education Budget Reserve Account created in Section 63-38-2.6 may not
 163 exceed ~~[8%]~~ 6% of the total of the General Fund appropriation amount and the Uniform School
 164 Fund appropriation amount for the fiscal year in which the surplus occurred.

165 (ii) In addition to Subsection (2)(a)(i), if a surplus exists and if, within the last ten
 166 years, the Legislature has appropriated any money from the General Fund Budget Reserve
 167 Account that has not been replaced by appropriation or as provided in this Subsection (2)(a)(ii),
 168 the Division of Finance shall, before any contingent appropriations or other transfers required
 169 by law are made, transfer up to 25% more of the surplus to the General Fund Budget Reserve
 170 Account to replace the amounts appropriated until transfers of the surplus under this
 171 Subsection (2)(a)(ii) have replaced the appropriations from the fund.

172 (b) The amount to be transferred to the General Fund Budget Reserve Account shall be
 173 determined before any other contingency appropriation using surplus funds.

174 (3) (a) If, at the close of any fiscal year, there appear to be insufficient monies to pay
 175 additional debt service for any bonded debt authorized ~~[during the last annual general session~~
 176 ~~and any special session]~~ by the Legislature, the Division of Finance may hold back monies
 177 from any General Fund surplus sufficient to pay the additional debt service requirements
 178 resulting from issuance of bonded debt that was authorized by the Legislature ~~h~~ **h** ~~[in the last annual~~
 179 ~~general session and any special session]~~ **h** .

180 (b) The Division of Finance may not spend the hold back amount for debt service
 181 under Subsection (3)(a) unless and until it is appropriated by the Legislature.

182 (c) If, after calculating the amount for transfers to the General Fund Budget Reserve

183 Account, the remaining surplus is insufficient to cover the hold back for debt service required
184 by Subsection (3)(a), the Division of Finance shall reduce the transfer to the General Fund
185 Budget Reserve Account by the amount necessary to cover the debt service hold back.

186 (d) Notwithstanding Subsection (2), the Division of Finance shall hold back the
187 General Fund balance for debt service authorized by this Subsection (3) before making any
188 transfers to the General Fund Budget Reserve Account or any other designation or allocation of
189 surplus.

190 (4) (a) Any appropriation made by the Legislature from the General Fund Budget
191 Reserve Account may only be used to cover operating deficits or retroactive tax refunds.

192 (b) The [~~Budgetary~~] General Fund Budget Reserve Account is available for
193 appropriation to fund operating deficits in public education appropriations.

194 (5) All interest generated from investments of money in the General Fund Budget
195 Reserve Account shall be deposited into the account.

196 Section 5. Section **63-38-2.6** is enacted to read:

197 **63-38-2.6. Establishing an Education Budget Reserve Account -- Providing for**
198 **deposits and expenditures from the account.**

199 (1) There is created within the Uniform School Fund a restricted account to be known
200 as the Education Budget Reserve Account, which is designated to receive the surplus revenue
201 required by this section.

202 (2) (a) (i) At the end of any fiscal year in which the Division of Finance, in conjunction
203 with the completion of the annual audit by the state auditor, determines that there is a Uniform
204 School Fund surplus, 25% of the surplus shall be transferred to the Education Budget Reserve
205 Account, except that the amount in the combined totals of the Education Budget Reserve
206 Account and the General Fund Budget Reserve Account created in Section 63-38-2.5 may not
207 exceed 6% of the total of the Uniform School Fund appropriation amount and the General
208 Fund appropriation amount for the fiscal year in which the surplus occurred.

209 (ii) In addition to Subsection (2)(a)(i), if a surplus exists and if, within the last ten
210 years, the Legislature has appropriated any money from the Education Budget Reserve Account
211 that has not been replaced by appropriation or as provided in this Subsection (2)(a)(ii), the
212 Division of Finance shall, before any contingent appropriations or other transfers required by
213 law are made, transfer up to 25% more of the surplus to the Education Budget Reserve Account

214 to replace the amounts appropriated until transfers of the surplus under this Subsection
215 (2)(a)(ii) have replaced the appropriations from the fund.

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

218 (3) Any appropriation made by the Legislature from the Education Budget Reserve
219 Account may only be used to cover operating deficits in the state's public and higher education
220 system.

221 (4) All interest generated from investments of money in the Education Budget Reserve
222 Account shall be deposited into the account.

223 Section 6. Section **63-38c-103** is amended to read:

224 **63-38c-103. Definitions.**

225 As used in this chapter:

226 (1) (a) "Appropriations" means actual unrestricted capital and operating appropriations
227 from unrestricted General Fund, Uniform School Fund, and Transportation Fund sources as
228 presented in the governor's executive budgets.

229 (b) "Appropriation" includes appropriations that are contingent upon available
230 surpluses in the General Fund, Uniform School Fund, or Transportation Fund.

231 (c) "Appropriation" includes appropriations made to the Centennial Highway Fund
232 from unrestricted General Fund and Transportation Fund revenues.

233 (d) "Appropriations" does not mean:

234 (i) debt service expenditures;

235 (ii) emergency expenditures;

236 (iii) expenditures from all other fund or subfund sources presented in the executive
237 budgets;

238 (iv) transfers into, or appropriations made to, the [~~Budgetary~~] General Fund Budget
239 Reserve Account established in Section 63-38-2.5;

240 (v) transfers into, or appropriations made to, the Education Budget Reserve Account
241 established in Section 63-38-2.6;

242 [~~(v)~~] (vi) monies appropriated to fund the total one-time project costs for the
243 construction of capital developments as defined in Section 63A-5-104; or

244 [~~(vi)~~] (vii) appropriations made to the Centennial Highway Fund from sources other

245 than the unrestricted General Fund and Transportation Fund revenues created by Section
246 72-2-118.

247 (2) "Base year real per capita appropriations" means the result obtained for the state by
248 dividing the fiscal year 1985 actual appropriations of the state less debt monies, less \$55
249 million appropriated for flooding and less \$14.2 million appropriated for capital projects in
250 Section 3 of Chapter 265, Laws of Utah 1985 General Session, by:

251 (a) the state's July 1, 1983 population; and

252 (b) the fiscal year 1983 inflation index divided by 100.

253 (3) "Calendar year" means the time period beginning on January 1 of any given year
254 and ending on December 31 of the same year.

255 (4) "Fiscal emergency" means an extraordinary occurrence requiring immediate
256 expenditures and includes the settlement under Chapter 4, Laws of Utah 1988, Fourth Special
257 Session.

258 (5) "Fiscal year" means the time period beginning on July 1 of any given year and
259 ending on June 30 of the subsequent year.

260 (6) "Fiscal year 1985 actual base year appropriations" means fiscal year 1985 actual
261 capital and operations appropriations from general, uniform school, and transportation fund
262 sources, less debt monies, less \$55 million appropriated for flooding, and less \$14.2 million
263 appropriated for capital projects in Section 3, Chapter 265, Laws of Utah 1985.

264 (7) "Inflation index" means the change in the general price level of goods and services
265 as measured by the Gross National Product Implicit Price Deflator of the Bureau of Economic
266 Analysis, U.S. Department of Commerce calculated as provided in Section 63-38c-202.

267 (8) (a) "Maximum allowable appropriations limit" means the appropriations that could
268 be, or could have been, spent in any given year under the limitations of this chapter.

269 (b) "Maximum allowable appropriations limit" does not mean actual appropriations
270 spent or actual expenditures.

271 (9) "Most recent fiscal year's inflation index" means the fiscal year inflation index two
272 fiscal years previous to the fiscal year for which the maximum allowable inflation and
273 population appropriations limit is being computed under this chapter.

274 (10) "Most recent fiscal year's personal income" means the fiscal year personal income
275 two fiscal years previous to the fiscal year for which the maximum allowable personal income

276 appropriations limit is being computed under this chapter.

277 (11) "Most recent fiscal year's population" means the fiscal year population two fiscal
278 years previous to the fiscal year for which the maximum allowable inflation and population
279 appropriations limit is being computed under this chapter.

280 (12) "Personal income" means the total personal income of the state as calculated by
281 the Office of Planning and Budget according to the procedures and requirements of Section
282 63-38c-202.

283 (13) "Population" means the number of residents of the state as of July 1 of each year
284 as calculated by the Office of Planning and Budget according to the procedures and
285 requirements of Section 63-38c-202.

286 (14) "Revenues" means the revenues of the state from every tax, penalty, receipt, and
287 other monetary exaction and interest connected with it that are recorded as unrestricted revenue
288 of the General Fund, Uniform School Fund, and Transportation Fund, except as specifically
289 exempted by this chapter.

290 (15) "Security" means any bond, note, warrant, or other evidence of indebtedness,
291 whether or not the bond, note, warrant, or other evidence of indebtedness is or constitutes an
292 "indebtedness" within the meaning of any provision of the constitution or laws of this state.

Legislative Review Note
as of 11-21-02 2:39 PM

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

Office of Legislative Research and General Counsel

Interim Committee Note
as of 12-12-02 4:02 PM

The Government Operations Interim Committee recommended this bill.

Fiscal Note**Budget Reserve Account Amendments***09-Jan-03***Bill Number HB0027***4:55 PM*

State Impact

Provisions of this bill require a transfer of 25 percent of the year end Uniform School Fund surplus to a Restricted Account - Education Budget Reserve Account. Based on the average Uniform School Fund surplus, this bill could result in a transfer of surplus Uniform School Fund of up to \$4,000,000 annually.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst