

BUDGET RESERVE ACCOUNT AMENDMENTS

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Craig W. Buttars

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

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

AMENDS:

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

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

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

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

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

ENACTS:

63-38-2.6, Utah Code Annotated 1953

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

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

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

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

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

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

(ii) the siting of a replacement company.

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

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

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

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

- (A) the number of Utah jobs created;
- (B) the increased economic activity in Utah; and
- (C) other events and activities that occur as a result of the fund loan.

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

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

- (A) the number of Utah jobs created;
- (B) the increased economic activity in Utah; and
- (C) other events and activities that occur as a result of the fund loan.

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

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

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

additional unrestricted, undesignated General Fund balance on June 30, 1992, shall be earmarked to the Industrial Assistance Fund in an amount equal to any credit that has accrued under this part. These credit amounts may not be used for purposes of the fund as provided in this part until appropriated by the Legislature.

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

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

- (1) There is created within the General Fund a restricted account known as the Oil and Gas Conservation Account.
- (2) The contents of the account shall consist of:
 - (a) revenues from the fee levied under Section 40-6-14, including any penalties or interest charged for delinquent payments; and
 - (b) interest and earnings on account monies.
- (3) Account monies shall be used to pay for the:
 - (a) administration of this chapter; and
 - (b) plugging and reclamation of abandoned oil or gas wells or bore, core, or exploratory holes for which:
 - (i) there is no reclamation surety; or
 - (ii) the forfeited surety is insufficient for plugging and reclamation.
- (4) Priority in the use of the monies shall be given to paying for the administration of this chapter.
- (5) Appropriations for plugging and reclamation of abandoned oil or gas wells or bore, core, or exploratory holes shall be nonlapsing.
- (6) The balance of the Oil and Gas Conservation Account at the end of a fiscal year may not exceed \$750,000. Any excess monies shall be transferred to the General Fund.
- (7) (a) As used in this Subsection (7), "excess fee revenue" means revenue collected in fiscal year 1999-2000 from the fee levied under Section 40-6-14 that exceeds the fee revenue appropriated to the Division of Oil, Gas, and Mining in fiscal year 1999-2000.

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

(c) The transfer provided in Subsection (7)(b) shall be made after General Fund surplus monies are transferred to the General Fund Budget Reserve Account pursuant to Section 63-38-2.5.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) budget transfers or other legal means;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) There is created within the Uniform School Fund a restricted account to be known as the Education Budget Reserve Account, which is designated to receive the surplus revenue

required by this section.

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

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

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

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

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

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

63-38c-103. Definitions.

As used in this chapter:

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

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

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

(d) "Appropriations" does not mean:

(i) debt service expenditures;

(ii) emergency expenditures;

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

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

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

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

~~[(vi)]~~ (vii) appropriations made to the Centennial Highway Fund from sources other than the unrestricted General Fund and Transportation Fund revenues created by Section 72-2-118.

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

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

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

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

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

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

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

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

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

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

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

(10) "Most recent fiscal year's personal income" means the fiscal year personal income two fiscal years previous to the fiscal year for which the maximum allowable personal income appropriations limit is being computed under this chapter.

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

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

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

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

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