

Representative Curtis Oda proposes the following substitute bill:

DISASTER RECOVERY FUNDING

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis Oda

Senate Sponsor: Sheldon L. Killpack

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19	Carl W. Duckworth	Fred R. Hunsaker	Scott L Wyatt



LONG TITLE

General Description:

This bill modifies provisions related to funding state and local government recovery efforts in cases of declared disasters.

Highlighted Provisions:

This bill:

- ▶ addresses emergency expenditures by local governments;
- ▶ transitions current loan programs for disasters to the Disaster Recovery Funding

Act;



- 30 ▶ modifies the duties of the Division of Emergency Services and Homeland Security;
- 31 ▶ enacts the Disaster Recovery Funding Act including:
 - 32 • enacting definitions;
 - 33 • creating the State Disaster Recovery Restricted Account;
 - 34 • directing the division to address state emergency disaster services;
 - 35 • authorizing local governments to create local disaster funds; and
 - 36 • requiring reporting;
- 37 ▶ addresses the governor's powers in cases of emergency;
- 38 ▶ provides for deposits into the state disaster recovery funds;
- 39 ▶ coordinates the state disaster recovery fund with funds outside the act;
- 40 ▶ addresses limitations on spending; and
- 41 ▶ makes technical and conforming amendments.

42 **Monies Appropriated in this Bill:**

43 None

44 **Other Special Clauses:**

45 None

46 **Utah Code Sections Affected:**

47 AMENDS:

- 48 **10-5-118**, as enacted by Chapter 34, Laws of Utah 1983
- 49 **10-6-129**, as last amended by Chapter 52, Laws of Utah 1981
- 50 **17-36-27**, as enacted by Chapter 22, Laws of Utah 1975
- 51 **53-2-102.5**, as last amended by Chapter 89, Laws of Utah 2006
- 52 **53-2-104**, as last amended by Chapter 214, Laws of Utah 2005
- 53 **63-5a-8**, as last amended by Chapter 14, Laws of Utah 2002
- 54 **63-38c-103**, as last amended by Chapter 1, Laws of Utah 2005, First Special Session
- 55 **63-38f-904**, as renumbered and amended by Chapter 148, Laws of Utah 2005

56 ENACTS:

- 57 **53-2-401**, Utah Code Annotated 1953
- 58 **53-2-402**, Utah Code Annotated 1953
- 59 **53-2-403**, Utah Code Annotated 1953
- 60 **53-2-404**, Utah Code Annotated 1953

- 61 **53-2-405**, Utah Code Annotated 1953
- 62 **53-2-406**, Utah Code Annotated 1953
- 63 **63-38-2.7**, Utah Code Annotated 1953



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

66 Section 1. Section **10-5-118** is amended to read:

67 **10-5-118. Emergency expenditures.**

68 (1) The council, on determining that an emergency exists, such as widespread damage
69 from fire, flood, or earthquake, and that the emergency necessitates the expenditure of money
70 in excess of the budget of the general fund, may amend the budget and authorize such
71 expenditures as may be reasonably necessary to meet the emergency.

72 (2) Except to the extent provided for in Title 53, Chapter 2, Part 4, Disaster Recovery
73 Funding Act, a council of a town may not expend monies in the town's local fund for an
74 emergency, if the town creates a local fund under Title 53, Chapter 2, Part 4, Disaster Recovery
75 Funding Act.

76 Section 2. Section **10-6-129** is amended to read:

77 **10-6-129. Emergency expenditures.**

78 ~~[In the event]~~ (1) If the governing body of a city determines that an emergency exists,
79 such as widespread damage from fire, flood, or earthquake, and that the emergency necessitates
80 the expenditure of money in excess of the budget of the general fund, the governing body may
81 by resolution amend the budget and authorize such expenditures and incur such deficits in the
82 fund balance of the general fund as may be reasonably necessary to meet the emergency.

83 (2) Except to the extent provided for in Title 53, Chapter 2, Part 4, Disaster Recovery
84 Funding Act, the governing body of a city may not expend monies in the city's local fund for an
85 emergency, if the city creates a local fund under Title 53, Chapter 2, Part 4, Disaster Recovery
86 Funding Act.

87 Section 3. Section **17-36-27** is amended to read:

88 **17-36-27. Emergency expenditures -- Deficit.**

89 (1) If the governing body determines that an emergency exists, such as widespread
90 damage from fire, flood, or earthquake, and that the expenditure of money in excess of the
91 general fund budget is necessary, it may make such expenditures and incur such deficits as

92 reasonably necessary to meet the emergency.

93 (2) Except to the extent provided for in Title 53, Chapter 2, Part 4, Disaster Recovery
94 Funding Act, the governing body of the county may not expend monies in the county's local
95 fund for an emergency, if the county creates a local fund under Title 53, Chapter 2, Part 4,
96 Disaster Recovery Funding Act.

97 Section 4. Section **53-2-102.5** is amended to read:

98 **53-2-102.5. Loan program for disasters prior to Disaster Recovery Funding Act.**

99 ~~[(1) The director may make loans to local governments as provided in this section~~
100 ~~when:]~~

101 ~~[(a) the governor has issued a proclamation declaring a state of emergency because of a~~
102 ~~natural disaster;]~~

103 ~~[(b) the Legislature has appropriated monies to the division explicitly for that purpose;~~
104 ~~and]~~

105 ~~[(c) threats to the public health and safety, or damages to flood control systems or the~~
106 ~~transportation infrastructure exist.]~~

107 ~~[(2) (a) In order to qualify for loans under this section, the county and each political~~
108 ~~subdivision within the county shall:]~~

109 ~~[(i) pass a resolution that:]~~

110 ~~[(A) requests a loan;]~~

111 ~~[(B) identifies the loan amount that is requested; and]~~

112 ~~[(C) describes, in as much detail as possible, how the entity will spend the loan~~
113 ~~proceeds; and]~~

114 ~~[(ii) complete the application for funds provided by the director.]~~

115 ~~[(b) Each political subdivision other than the county shall submit a copy of its~~
116 ~~resolution and application to the county legislative body.]~~

117 ~~[(c) The county legislative body shall file with the director:]~~

118 ~~[(i) a letter identifying the total loan amount sought by the county and its political~~
119 ~~subdivisions; and]~~

120 ~~[(ii) a copy of the county's resolution and application and a copy of the resolution and~~
121 ~~application of each political subdivision seeking loan funds.]~~

122 ~~[(3) (a) To the extent appropriated funds are available, the director shall prepare a~~

123 promissory note lending the county the total amount requested by the county for itself and its
124 political subdivisions.]

125 [(b) Except as required in Subsections (8) and (9), the director shall ensure that the
126 promissory note contains:]

127 [(i) a requirement that the principal on the note is due on the May 1 in the calendar year
128 two years after the year in which the note is signed;]

129 [(ii) terms that require repayment of the principal on the note be made to the General
130 Fund Budget Reserve Account established in Section 63-38-2.5; and]

131 [(iii) terms that limit the use of note proceeds to the repair and reconstruction of
132 infrastructures owned by local governments located within the county.]

133 [(c) After an authorized representative of the county signs the promissory note, the
134 director shall disburse the loan funds to the county.]

135 [(4) The county and any participating political subdivision may not use loan proceeds
136 for costs:]

137 [(a) that could have been paid from other available funding sources if the county or
138 participating political subdivision had applied for those funds; or]

139 [(b) to compensate private businesses or private persons for damages incurred in the
140 disaster by those private businesses or persons.]

141 [(5) After receiving the loan proceeds from the state, the county shall, before
142 disbursing loan proceeds to the other county political subdivisions, obtain signed promissory
143 notes from each participating political subdivision that include terms substantially similar to
144 the terms contained in the promissory note signed by the county.]

145 [(6) The county shall, on behalf of itself and any participating political subdivision, file
146 a report with the director every three months, that:]

147 [(a) specifies each project on which loan funds were expended, classified by the name
148 of the local entity that expended the funds; and]

149 [(b) identifies the amount expended for that project.]

150 [(7) If the county or one of its participating political subdivisions has not expended or
151 committed the funds by the date that the promissory note is due, the county or participating
152 political subdivision shall return the unused or uncommitted funds to the director for redeposit
153 into the fund.]

154 ~~[(8)]~~ (1) (a) For each promissory note issued under this section that is unpaid on May
155 1, 2006, the director shall issue a new promissory note to replace the existing promissory note:

156 ~~[(a)]~~ (i) for the principal amount of the unpaid promissory note without accrued
157 interest, if any;

158 ~~[(b)]~~ (ii) due on or before June 30, 2007; and

159 ~~[(c)]~~ (iii) with no interest rate.

160 (b) For a promissory note issued under this section that is unpaid as of April 30, 2007,
161 the division shall ensure that when the principal on the promissory note is repaid, the
162 repayment is made to the State Disaster Recovery Restricted Account created in Section
163 53-2-403.

164 ~~[(9)]~~ (2) The director shall ensure that each promissory note issued under this section
165 that is funded by monies appropriated and available for disaster loans as of January 1, 2006, are
166 due on or before June 30, 2007.

167 (3) The Division of Finance shall transfer by no later than June 30, 2007, any monies
168 repaid under this section to the General Fund Budget Reserve Account established in Section
169 63-38-2.5 to the State Disaster Recovery Restricted Account created in Section 53-2-403.

170 Section 5. Section **53-2-104** is amended to read:

171 **53-2-104. Division duties -- Powers.**

172 (1) The division shall:

173 (a) respond to the policies of the governor and the Legislature;

174 (b) perform functions relating to emergency services and homeland security matters as
175 directed by the commissioner;

176 (c) prepare, implement, and maintain programs and plans to provide for:

177 (i) prevention and minimization of injury and damage caused by disasters;

178 (ii) prompt and effective response to and recovery from disasters;

179 (iii) identification of areas particularly vulnerable to disasters;

180 (iv) coordination of hazard mitigation and other preventive and preparedness measures
181 designed to eliminate or reduce disasters;

182 (v) assistance to local officials, state agencies, and the business and public sectors, in
183 developing emergency action plans;

184 (vi) coordination of federal, state, and local emergency activities;

185 (vii) coordination of emergency operations plans with emergency plans of the federal
186 government;

187 (viii) coordination of search and rescue activities;

188 (ix) coordination of rapid and efficient communications in times of emergency; and

189 (x) other measures necessary, incidental, or appropriate to this part; [~~and~~]

190 (d) coordinate with local officials, state agencies, and the business and public sectors in
191 developing, implementing, and maintaining a state energy emergency plan in accordance with
192 Section 53-2-110[-]; and

193 (e) administer Part 4, Disaster Recovery Funding Act, in accordance with that part.

194 (2) The division may consult with the Legislative Management Committee, the Judicial
195 Council, and legislative and judicial staff offices to assist them in preparing emergency
196 succession plans and procedures under Title 63, Chapter 5b, Emergency Interim Succession
197 Act.

198 Section 6. Section **53-2-401** is enacted to read:

199 **Part 4. Disaster Recovery Funding Act**

200 **53-2-401. Title.**

201 This part is known as the "Disaster Recovery Funding Act."

202 Section 7. Section **53-2-402** is enacted to read:

203 **53-2-402. Definitions.**

204 (1) Unless otherwise defined in this section, the terms defined in Part 1, Emergency
205 Services and Homeland Security Act, shall have the same meaning for this part.

206 (2) As used in this part:

207 (a) Subject to Subsections (2)(a)(ii), "declared disaster" means one or more events:

208 (i) within the state;

209 (ii) that occur within a limited period of time;

210 (iii) that involve:

211 (A) a significant number of persons being at risk of bodily harm, sickness, or death; or

212 (B) a significant portion of real property at risk of loss;

213 (iv) that are sudden in nature and generally occur less frequently than every three years;

214 and

215 (v) that results in:

216 (A) the president of the United States declaring an emergency or major disaster in the
217 state;

218 (B) the governor declaring a state of emergency under Title 63, Chapter 5a, Disaster
219 Response and Recovery; or

220 (C) the chief executive officer of a local government declaring a local emergency under
221 Title 63, Chapter 5a, Disaster Response and Recovery.

222 (b) "Disaster recovery fund" means the State Disaster Recovery Restricted Account
223 created in Section 53-2-403.

224 (c) "Emergency preparedness" means the following done for the purpose of being
225 prepared for an emergency as defined by the division by rule made in accordance with Title 63,
226 Chapter 46a, Utah Administrative Rulemaking Act:

227 (i) the purchase of equipment;

228 (ii) the training of personnel; or

229 (iii) the obtaining of a certification.

230 (d) (i) "Emergency disaster services" means the following that are of a temporary basis:

231 (A) evacuation;

232 (B) shelter;

233 (C) medical triage;

234 (D) emergency transportation;

235 (E) repair of infrastructure;

236 (F) safety services, including fencing or roadblocks;

237 (G) sandbagging;

238 (H) emergency debris removal;

239 (I) temporary bridges;

240 (J) procurement and distribution of food, water, or ice;

241 (K) procurement and deployment of generators;

242 (L) rescue or recovery; or

243 (M) services similar to those described in Subsections (2)(d)(i)(A) through (L), as
244 defined by the division by rule, that are generally required within the first 96 hours of a
245 declared disaster.

246 (ii) "Emergency disaster services" does not include:

247 (A) emergency preparedness; or
248 (B) notwithstanding whether or not a county participates in the Wildland Fire
249 Suppression Fund created in Section 65A-8-6.1, any fire suppression or presuppression costs
250 that may be paid for from the Wildland Fire Suppression Fund if the county participates in the
251 Wildland Fire Suppression Fund.

252 (e) "Local fund" means a local government disaster fund created in accordance with
253 Section 53-2-405.

254 (f) "Local government" means a county, city, or town.

255 (g) "Special fund" means a fund other than a general fund of a local government that is
256 created for a special purpose established under the uniform system of budgeting, accounting,
257 and reporting.

258 Section 8. Section **53-2-403** is enacted to read:

259 **53-2-403. State Disaster Recovery Restricted Account.**

260 (1) (a) There is created a restricted account in the General Fund known as the "State
261 Disaster Recovery Restricted Account."

262 (b) The disaster recovery fund shall consist of:

263 (i) monies deposited into the disaster recovery fund in accordance with Section
264 53-2-102.5;

265 (ii) monies deposited into the disaster recovery fund in accordance with Section
266 63-38-2.7;

267 (iii) monies appropriated to the disaster recovery fund by the Legislature;

268 (iv) any other public or private monies received by the division that are:

269 (A) given to the division for purposes consistent with this section; and

270 (B) deposited into the disaster recovery fund at the request of:

271 (I) the division; or

272 (II) the person giving the monies; and

273 (v) interest or other earnings derived from the disaster recovery fund.

274 (c) Monies in the disaster recovery fund may only be used as follows:

275 (i) without the monies being appropriated by the Legislature, in any fiscal year the
276 division may use \$100,000 to fund, in accordance with Section 53-2-405, costs to the state of
277 emergency disaster services in response to a declared disaster; and

278 (ii) subject to being appropriated by the Legislature, monies not described in
279 Subsection (1)(c)(i) may be used to fund costs to the state directly related to a declared disaster
280 that are not costs related to:

281 (A) emergency disaster services;

282 (B) emergency preparedness; or

283 (C) notwithstanding whether or not a county participates in the Wildland Fire
284 Suppression Fund created in Section 65A-8-6.1, any fire suppression or presuppression costs
285 that may be paid for from the Wildland Fire Suppression Fund if the county participates in the
286 Wildland Fire Suppression Fund.

287 (3) The state treasurer shall invest monies in the disaster recovery fund according to
288 Title 51, Chapter 7, State Money Management Act, except that the state treasurer shall deposit
289 all interest or other earnings derived from the disaster recovery fund into the disaster recovery
290 fund.

291 (4) (a) Except as provided in Subsection (1), the monies in the disaster recovery fund
292 may not be diverted, appropriated, or used for a purpose that is not listed in this section.

293 (b) Notwithstanding Section 63-38-3.6, the Legislature may not appropriate monies
294 from the disaster recovery fund to eliminate or otherwise reduce an operating deficit if the
295 monies appropriated from the disaster recovery fund are used for a purpose other than one
296 listed in this section.

297 (c) The Legislature may not amend the purposes for which monies in the disaster
298 recovery fund may be used except by the affirmative vote of two-thirds of all the members
299 elected to each house.

300 Section 9. Section **53-2-404** is enacted to read:

301 **53-2-404. Emergency disaster services.**

302 (1) Subject to this section and Section 53-2-403, the division shall use monies
303 described in Subsection 53-2-403(1)(c)(i) to fund costs to the state of emergency disaster
304 services.

305 (2) Monies may be paid by the division under this section to government entities and
306 private persons providing emergency disaster services are subject to Title 63, Chapter 56, Utah
307 Procurement Code.

308 Section 10. Section **53-2-405** is enacted to read:

309 **53-2-405. Local government disaster funds.**

310 (1) (a) Subject to this section and notwithstanding anything to the contrary contained in
311 Title 10, Utah Municipal Code, or Title 17, Counties, the legislative body of a local
312 government may create and maintain by ordinance a special fund known as a local government
313 disaster fund.

314 (b) The local fund shall consist of:

315 (i) subject to the limitations of this section, monies transferred to it in accordance with
316 Subsection (2);

317 (ii) any other public or private monies received by the local government that are:

318 (A) given to the local government for purposes consistent with this section; and

319 (B) deposited into the local fund at the request of:

320 (I) the legislative body of the local government; or

321 (II) the person giving the monies; and

322 (iii) interest or income realized from the local fund.

323 (c) Interest or income realized from the local fund shall be deposited into the local
324 fund.

325 (d) Monies in a local fund may be:

326 (i) deposited or invested as provided in Section 51-7-11; or

327 (ii) transferred by the local government treasurer to the state treasurer under Section
328 51-7-5 for the state treasurer's management and control under Title 51, Chapter 7, State Money
329 Management Act.

330 (e) (i) The monies in a local fund may accumulate from year to year until the local
331 government legislative body determines to spend any money in the local fund for one or more
332 of the purposes specified in Subsection (3).

333 (ii) Monies in a local fund at the end of a fiscal year:

334 (A) shall remain in the local fund for future use; and

335 (B) may not be transferred to any other fund or used for any other purpose.

336 (2) The amounts transferred to a local fund may not exceed 10% of the total estimated
337 revenues of the local government for the current fiscal period that are not restricted or
338 otherwise obligated.

339 (3) Monies in the fund may only be used to fund the services and activities of the local

340 government creating the local fund in response to:

341 (a) a declared disaster within the boundaries of the local government;

342 (b) the aftermath of the disaster that gave rise to a declared disaster within the
343 boundaries of the local government; and

344 (c) subject to Subsection (5), emergency preparedness.

345 (4) (a) A local fund is subject to this part and:

346 (i) in the case of a town, Title 10, Chapter 5, Uniform Fiscal Procedures Act for Utah
347 Towns, except for:

348 (A) in addition to the funds listed in Section 10-5-106, the mayor shall prepare a
349 budget for the local fund;

350 (B) Section 10-5-119 addressing termination of special funds does not apply to a local
351 fund; and

352 (C) the council of the town may not authorize an interfund loan under Section
353 10-5-120 from the local fund;

354 (ii) in the case of a city, Title 10, Chapter 6, Uniform Fiscal Procedures Act for Utah
355 Cities, except for:

356 (A) in addition to the funds listed in Section 10-6-109, the mayor shall prepare a
357 budget for the local fund;

358 (B) Section 10-6-131 addressing termination of special funds does not apply to a local
359 fund; and

360 (C) the governing body of the city may not authorize an interfund loan under Section
361 10-6-132 from the local fund; and

362 (iii) in the case of a county, Title 17, Chapter 36, Uniform Fiscal Procedures Act for
363 Counties, except for:

364 (A) Section 17-36-29 addressing termination of special funds; and

365 (B) the governing body of the county may not authorize an interfund loan under
366 Section 17-36-30 from the local fund.

367 (b) Notwithstanding Subsection (4)(a), transfers of monies to a local fund or the
368 accumulation of monies in a local fund do not affect any limits on fund balances, net assets, or
369 the accumulation of retained earnings in any of the following of a local government:

370 (i) a general fund;

- 371 (ii) an enterprise fund;
- 372 (iii) an internal service fund; or
- 373 (iv) any other fund.

374 (5) (a) A local government may not expend during a fiscal year more than 10% of the
375 monies budgeted to be deposited into a local fund during that fiscal year for emergency
376 preparedness.

377 (b) The amount described in Subsection (5)(a) shall be determined before the adoption
378 of the tentative budget.

379 Section 11. Section **53-2-406** is enacted to read:

380 **53-2-406. Reporting.**

381 By no later than December 31 of each year, the division shall provide a written report to
382 the governor and the Legislature's executive appropriations committee of:

- 383 (1) the division's activities under this part;
- 384 (2) monies expended in accordance with this part; and
- 385 (3) the balances in the disaster recovery fund.

386 Section 12. Section **63-5a-8** is amended to read:

387 **63-5a-8. Acquisition of property for public use -- Compensation of owners.**

388 (1) (a) Upon proclamation of a state of emergency, the governor may purchase or lease
389 public or private property for public use including:

- 390 (i) food and medical supplies;
- 391 (ii) clothing;
- 392 (iii) shelter;
- 393 (iv) means of transportation;
- 394 (v) fuels;
- 395 (vi) oils; or
- 396 (vii) buildings or lands.

397 (b) The governor may not purchase private home storage nor privately owned arms.

398 (2) (a) The governor may use property purchased under authority of this section for any
399 purpose to meet the needs of an emergency, including its use to relieve want, distress, and
400 disease.

401 (b) Any property used by the governor to meet the needs of an emergency is a public

402 use.

403 (3) (a) The governor shall compensate the owner of property taken or used under
404 authority of this section by complying with the procedures established in Title 78, Chapter 34,
405 Eminent Domain.

406 (b) The governor shall pay for those purchases or leases from the funds available to the
407 Division of Emergency Services and Homeland Security under:

408 (i) this chapter; or

409 (ii) Title 53, Chapter 2, Part 4, Disaster Recovery Funding Act, to the extent provided
410 for in that chapter.

411 (4) Nothing in this section applies to or authorizes compensation for the destruction or
412 damage of standing timber or other property in order to provide a fire break or to the release of
413 waters or the breach of impoundments in order to reduce pressure or other danger from actual
414 or threatened flood.

415 Section 13. Section **63-38-2.7** is enacted to read:

416 **63-38-2.7. Deposits related to the Disaster Recovery Funding Act.**

417 Beginning with the fiscal year ending June 30, 2007, at the end of each fiscal year and
418 after the transfer of surplus General Fund revenues has been made to the General Fund Budget
419 Reserve Account as provided in Section 63-38-2.5, the Division of Finance shall deposit an
420 amount into the State Disaster Recovery Restricted Account, created in Section 53-2-403,
421 calculated by:

422 (1) determining the amount of surplus General Fund revenues after the transfer to the
423 General Fund Budget Reserve Account under Section 63-38-2.5 that is unrestricted and
424 undesignated;

425 (2) calculating an amount equal to the lesser of:

426 (a) 25% of the amount determined under Subsection (1)(a); or

427 (b) 6% of the total of the General Fund appropriation amount and the Uniform School
428 Fund appropriation amount for the fiscal year in which the surplus occurs; and

429 (3) adding to the amount calculated under Subsection (1)(b) an amount equal to the
430 lesser of:

431 (a) 25% more of the amount described in Subsection (1)(a); or

432 (b) the amount necessary to replace in accordance with this Subsection (1)(c) any

433 amount appropriated from the State Disaster Recovery Restricted Account within ten fiscal
434 years before the fiscal year in which the surplus occurs if:

435 (i) a surplus exists; and

436 (ii) the Legislature appropriates money from the State Disaster Recovery Restricted

437 Account that is not replaced by appropriation or as provided in this Subsection (1)(c).

438 Section 14. Section **63-38c-103** is amended to read:

439 **63-38c-103. Definitions.**

440 As used in this chapter:

441 (1) (a) "Appropriations" means actual unrestricted capital and operating appropriations
442 from unrestricted General Fund sources and from non-Uniform School Fund income tax
443 revenues as presented in the governor's executive budgets.

444 (b) [~~"Appropriation"~~] "Appropriations" includes appropriations that are contingent
445 upon available surpluses in the General Fund.

446 (c) "Appropriations" does not mean:

447 (i) debt service expenditures;

448 (ii) emergency expenditures;

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

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

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

455 (vi) transfers in accordance with Section 63-38-2.7 into, or appropriations made to the
456 State Disaster Recovery Restricted Account created in Section 53-2-403;

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

459 [~~(vii)~~] (viii) appropriations made to the Centennial Highway Fund Restricted Account
460 created by Section 72-2-118; or

461 [~~(viii)~~] (ix) appropriations made to the Transportation Investment Fund of 2005 created
462 by Section 72-2-124.

463 (2) "Base year real per capita appropriations" means the result obtained for the state by

464 dividing the fiscal year 1985 actual appropriations of the state less debt monies by:

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

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

467 (3) "Calendar year" means the time period beginning on January 1 of any given year

468 and ending on December 31 of the same year.

469 (4) "Fiscal emergency" means an extraordinary occurrence requiring immediate

470 expenditures and includes the settlement under Chapter 4, Laws of Utah 1988, Fourth Special

471 Session.

472 (5) "Fiscal year" means the time period beginning on July 1 of any given year and

473 ending on June 30 of the subsequent year.

474 (6) "Fiscal year 1985 actual base year appropriations" means fiscal year 1985 actual

475 capital and operations appropriations from General Fund and non-Uniform School Fund

476 income tax revenue sources, less debt monies.

477 (7) "Inflation index" means the change in the general price level of goods and services

478 as measured by the Gross National Product Implicit Price Deflator of the Bureau of Economic

479 Analysis, U.S. Department of Commerce calculated as provided in Section 63-38c-202.

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

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

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

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

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

493 (12) "Revenues" means the revenues of the state from every tax, penalty, receipt, and
494 other monetary exaction and interest connected with it that are recorded as unrestricted revenue

495 of the General Fund and from non-Uniform School Fund income tax revenues, except as
496 specifically exempted by this chapter.

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

500 Section 15. Section **63-38f-904** is amended to read:

501 **63-38f-904. Loans, grants, and assistance -- Repayment -- Earned credits.**

502 (1) (a) A company that qualifies under Section 63-38f-905 may receive loans, grants,
503 or other financial assistance from the fund for expenses related to establishment, relocation, or
504 development of industry in Utah.

505 (b) A company creating an economic impediment that qualifies under Section
506 63-38f-907 may in accordance with this part receive loans, grants, or other financial assistance
507 from the fund for the expenses of the company creating an economic impediment related to:

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

510 (ii) the siting of a replacement company.

511 (c) An entity offering an economic opportunity that qualifies under Section 63-38f-908
512 may:

513 (i) receive loans, grants, or other financial assistance from the fund for expenses related
514 to the establishment, relocation, retention, or development of industry in the state; and

515 (ii) include infrastructure or other economic development precursor activities that act
516 as a catalyst and stimulus for economic activity likely to lead to the maintenance or
517 enlargement of the state's tax base.

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

520 (b) Loans made under Subsection (2)(a) shall be structured so the intended repayment
521 or return to the state, including cash or credit, equals at least the amount of the assistance
522 together with an annual interest charge as negotiated by the administrator.

523 (c) Payments resulting from grants awarded from the fund shall be made only after the
524 administrator has determined that the company has satisfied the conditions upon which the
525 payment or earned credit was based.

526 (3) (a) (i) Except as provided in Subsection (3)(b), the administrator may provide for a
527 system of earned credits that may be used to support grant payments or in lieu of cash
528 repayment of a fund loan obligation.

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

531 (A) the number of Utah jobs created;

532 (B) the increased economic activity in Utah; or

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

534 (b) (i) The administrator shall provide for a system of credits to be used to support
535 grant payments or in lieu of cash repayment of a fund loan when loans are made to a company
536 creating an economic impediment.

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

539 (A) the number of Utah jobs created;

540 (B) the increased economic activity in Utah; or

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

542 (4) (a) A cash loan repayment or other cash recovery from a company receiving
543 assistance under this section, including interest, shall be deposited into the fund.

544 (b) The administrator and the Division of Finance shall determine the manner of
545 recognizing and accounting for the earned credits used in lieu of loan repayments or to support
546 grant payments as provided in Subsection (3).

547 (5) (a) At the end of each fiscal year, ~~[after the transfer of surplus General Fund~~
548 ~~revenues has been made to the General Fund Budget Reserve Account as provided in Section~~
549 ~~63-38-2.5, any additional]~~ the unrestricted, undesignated General Fund balance after the
550 transfers of surplus of General Fund revenues described in this Subsection (5)(a) shall be
551 earmarked to the Industrial Assistance Fund in an amount equal to any credit that has accrued
552 under this part. The earmark required by this Subsection (5)(a) shall be made after the transfer
553 of surplus General Fund revenues is made:

554 (i) to the General Fund Budget Reserve Account as provided in Section 63-38-2.5; and

555 (ii) beginning with the fiscal year ending June 30, 2007, as provided in Section
556 63-38-2.7.

557 (b) These credit amounts may not be used for purposes of the fund as provided in this
558 part until appropriated by the Legislature.