

**Representative Wayne A. Harper** proposes the following substitute bill:

**BUDGET RESERVE ACCOUNT AND DISASTER  
RECOVERY ACCOUNT AMENDMENTS**

2008 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Wayne A. Harper**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill makes changes to the state's budget reserve and disaster recovery accounts.

**Highlighted Provisions:**

This bill:

- ▶ changes target amounts for year-end surplus transfers to the General Fund Budget Reserve Account, Education Fund Budget Reserve Account, and State Disaster Recovery Restricted Account;
- ▶ modifies requirements governing deposits into the accounts;
- ▶ changes the conditions under which monies may be appropriated from the budget reserve accounts;
- ▶ designates legislative appropriations to the budget reserve accounts as repayments when specified appropriations from the accounts have not been repaid;
- ▶ requires the Legislative Fiscal Analyst and the Governor's Office of Planning and Budget to report to the Executive Appropriations Committee and the Tax Review Commission on revenue volatility and its relation to the balances in the General Fund Budget Reserve Account and the Education Budget Reserve Account; and
- ▶ makes technical changes.



26 **Monies Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **63-38-2.5**, as last amended by Laws of Utah 2003, Chapters 88, and 319

33 **63-38-2.6**, as last amended by Laws of Utah 2007, Chapter 122

34 **63-38-2.7**, as enacted by Laws of Utah 2007, Chapter 328

35 ENACTS:

36 ~~§~~ → [~~63-38-2.9~~] 63J-1-205 ← ~~§~~ , Utah Code Annotated 1953



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

39 Section 1. Section **63-38-2.5** is amended to read:

40 **63-38-2.5. Establishing a General Fund Budget Reserve Account -- Providing for**  
41 **deposits and expenditures from the account.**

42 (1) As used in this section:

43 (a) "Education Fund budget deficit" means a situation where appropriations made by  
44 the Legislature from the Education Fund for a fiscal year exceed the estimated revenues  
45 adopted by the Executive Appropriations Committee of the Legislature for the Education Fund  
46 in that fiscal year.

47 (b) "General Fund appropriations" means the sum of the spending authority for a fiscal  
48 year that is:

49 (i) granted by the Legislature in all appropriation acts and bills; and

50 (ii) identified as coming from the General Fund.

51 (c) "General Fund budget deficit" means a situation where General Fund appropriations  
52 made by the Legislature for a fiscal year exceed the estimated revenues adopted by the  
53 Executive Appropriations Committee of the Legislature for the General Fund in that fiscal year.

54 (d) "General Fund revenue surplus" means a situation where actual General Fund  
55 revenues collected in a completed fiscal year exceed the estimated revenues for the General  
56 Fund for that fiscal year that were adopted by the Executive Appropriations Committee of the

57 Legislature.

58 (e) "Operating deficit" means that, at the end of the fiscal year, the unreserved and  
59 undesignated fund balance in the General Fund is less than zero.

60 ~~[(1)]~~ (2) There is created within the General Fund a restricted account to be known as  
61 the General Fund Budget Reserve Account, which is designated to receive the legislative  
62 appropriations, investment earnings, and the surplus revenue required to be deposited into the  
63 account by this section.

64 ~~[(2)]~~ (3) (a) (i) ~~[At]~~ Except as provided in Subsection (3)(a)(ii), at the end of any fiscal  
65 year in which the Division of Finance, in consultation with the Legislative Fiscal Analyst and  
66 in conjunction with the completion of the annual audit by the state auditor, determines that  
67 there is a General Fund revenue surplus, the Division of Finance shall transfer 25% of the  
68 General Fund revenue surplus [shall be transferred] to the General Fund Budget Reserve  
69 Account[, except that the amount in the combined totals of the].

70 (ii) If the transfer of 25% of the General Fund revenue surplus to the General Fund  
71 Budget Reserve Account [and the Education Budget Reserve Account created in Section  
72 63-38-2.6 may not exceed 6%] would cause the balance in the account to exceed 6% of  
73 General Fund appropriations for the fiscal year in which the revenue surplus occurred, the  
74 Division of Finance shall transfer only those funds necessary to ensure that the balance in the  
75 account equals 6% of [the total of the] General Fund [appropriation amount and the Uniform  
76 School Fund appropriation amount] appropriations for the fiscal year in which the General  
77 Fund revenue surplus occurred.

78 (iii) The Division of Finance shall calculate the amount to be transferred under this  
79 Subsection (3)(a):

80 (A) before transferring from the General Fund revenue surplus any other year-end  
81 contingency appropriations, year-end set-asides, or other year-end transfers required by law;  
82 and

83 (B) excluding the investment earnings for the fiscal year and excluding any direct  
84 legislative appropriation made to the General Fund Budget Reserve Account for the fiscal year.

85 ~~[(ii) In]~~ (b) (i) Except as provided in Subsection (3)(b)(ii), in addition to Subsection  
86 ~~[(2)]~~ (3)(a)(i), if a General Fund revenue surplus exists and if, within the last ten years, the  
87 Legislature has appropriated any money from the General Fund Budget Reserve Account that

88 has not been replaced by appropriation or as provided in this Subsection [~~(2)(a)(ii)~~] (3)(b), the  
89 Division of Finance shall [~~before any contingent appropriations or other transfers required by~~  
90 ~~law are made,~~] transfer up to 25% more of the General Fund revenue surplus to the General  
91 Fund Budget Reserve Account to replace the amounts appropriated, until direct legislative  
92 appropriations, if any, and transfers [~~of~~] from the General Fund revenue surplus under this  
93 Subsection [~~(2)(a)(ii)~~] (3)(b) have replaced the appropriations from the [~~fund~~] account.

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

96 (ii) If the transfer under Subsection (3)(b)(i) would cause the balance in the account to  
97 exceed 6% of General Fund appropriations for the fiscal year in which the revenue surplus  
98 occurred, the Division of Finance shall transfer only those funds necessary to ensure that the  
99 balance in the account equals 6% of General Fund appropriations for the fiscal year in which  
100 the revenue surplus occurred.

101 (iii) The Division of Finance shall calculate the amount to be transferred under this  
102 Subsection (3)(b):

103 (A) before transferring from the General Fund revenue surplus any other year-end  
104 contingency appropriations, year-end set-asides, or other year-end transfers required by law;  
105 and

106 (B) excluding the investment earnings for the fiscal year and excluding any direct  
107 legislative appropriation made to the General Fund Budget Reserve Account for the fiscal year.

108 (c) For appropriations made by the Legislature to the General Fund Budget Reserve  
109 Account, the Division of Finance shall treat those appropriations, unless otherwise specified in  
110 the appropriation, as replacement funds for appropriations made from the account if funds were  
111 appropriated from the General Fund Budget Reserve Account within the past ten years and  
112 have not yet been replaced.

113 [~~(3)~~] (4) (a) If, at the close of any fiscal year, there appear to be insufficient monies to  
114 pay additional debt service for any bonded debt authorized by the Legislature, the Division of  
115 Finance may hold back [~~monies~~] from any General Fund revenue surplus monies sufficient to  
116 pay the additional debt service requirements resulting from issuance of bonded debt that was  
117 authorized by the Legislature.

118 (b) The Division of Finance may not spend the hold back amount for debt service

119 under Subsection [~~(3)~~] (4)(a) unless and until it is appropriated by the Legislature.

120 (c) If, after calculating the amount for transfers to the General Fund Budget Reserve  
121 Account, the remaining General Fund revenue surplus is insufficient to cover the hold back for  
122 debt service required by Subsection [~~(3)~~] (4)(a), the Division of Finance shall reduce the  
123 transfer to the General Fund Budget Reserve Account by the amount necessary to cover the  
124 debt service hold back.

125 (d) Notwithstanding Subsection [~~(2)~~] (3), the Division of Finance shall hold back the  
126 General Fund balance for debt service authorized by this Subsection [~~(3)~~] (4) before making  
127 any transfers to the General Fund Budget Reserve Account or any other designation or  
128 allocation of General Fund revenue surplus.

129 [~~(4) (a) Any appropriation made by the]~~

130 (5) Notwithstanding Subsection (3), if, at the end of a fiscal year, the Division of  
131 Finance determines that an operating deficit exists and that holding back the transfers to the  
132 State Disaster Recovery Restricted Account under Section 63-38-2.7 does not eliminate the  
133 operating deficit, the Division of Finance may reduce the transfer to the General Fund Budget  
134 Reserve Account by the amount necessary to eliminate the operating deficit.

135 (6) The Legislature may appropriate monies from the General Fund Budget Reserve  
136 Account [~~may~~] only [~~be used~~] to [~~cover operating deficits~~];

137 (a) resolve a General Fund budget deficit, for the fiscal year in which the General Fund  
138 budget deficit occurs;

139 (b) pay some or all of state settlement agreements approved under Title 63, Chapter  
140 38b, State Settlement Agreements[~~;~~];

141 (c) pay retroactive tax refunds[~~;~~]; or

142 (d) resolve an Education Fund budget deficit.

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

145 [~~(5) All interest~~] (7) Interest generated from investments of money in the General  
146 Fund Budget Reserve Account shall be deposited into the account.

147 Section 2. Section **63-38-2.6** is amended to read:

148 **63-38-2.6. Establishing an Education Budget Fund Reserve Account -- Providing**  
149 **for deposits and expenditures from the account.**

150 (1) As used in this section:

151 (a) "Education Fund appropriations" means the sum of the spending authority for a  
152 fiscal year that is:

153 (i) granted by the Legislature in all appropriation acts and bills; and

154 (ii) identified as coming from the Education Fund.

155 (b) "Education Fund budget deficit" means a situation where appropriations made by  
156 the Legislature from the Education Fund for a fiscal year exceed the estimated revenues  
157 adopted by the Executive Appropriations Committee of the Legislature for the Education Fund  
158 in that fiscal year.

159 (c) "Education Fund revenue surplus" means a situation where actual Education Fund  
160 revenues collected in a completed fiscal year exceed the estimated revenues for the Education  
161 Fund in that fiscal year that were adopted by the Executive Appropriations Committee of the  
162 Legislature.

163 (d) "Operating deficit" means that, at the end of the fiscal year, the unreserved and  
164 undesignated fund balance in the Education Fund is less than zero.

165 ~~[(+)]~~ (2) There is created within the Education Fund a restricted account to be known  
166 as the Education Fund Budget Reserve Account, which is designated to receive the legislative  
167 appropriations, investment earnings, and the surplus revenue required to be deposited into the  
168 account by this section.

169 ~~[(2)]~~ (3) (a) (i) ~~[At]~~ Except as provided in Subsection (3)(a)(ii), at the end of any fiscal  
170 year in which the Division of Finance, in consultation with the Legislative Fiscal Analyst and  
171 in conjunction with the completion of the annual audit by the state auditor, determines that  
172 there is [a] an Education Fund revenue surplus [in the Education Fund, the Uniform School  
173 Fund or both], the Division of Finance shall transfer 25% of the [cumulative] Education Fund  
174 revenue surplus [shall be transferred] to the Education Fund Budget Reserve Account[~~-, except~~  
175 that the amount in the combined totals of].

176 (ii) If the transfer of 25% of the Education Fund revenue surplus to the Education Fund  
177 Budget Reserve Account [and the General Fund Budget Reserve Account created in Section  
178 63-38-2.5 may not exceed 6%] under Subsection (3)(a)(i) would cause the balance in the  
179 account to exceed 7% of Education Fund appropriations for the fiscal year in which the  
180 Education Fund revenue surplus occurred, the Division of Finance shall transfer only those

181 funds necessary to ensure that the balance in the account equals 7% of the [total combined  
 182 appropriations from the] Education Fund appropriations [and the General Fund] for the fiscal  
 183 year in which the Education Fund revenue surplus occurred.

184 (iii) The Division of Finance shall calculate the amount to be transferred under this  
 185 Subsection (3)(a):

186 (A) before transferring from the Education Fund revenue surplus any other year-end  
 187 contingency appropriations, year-end set-asides, or other year-end transfers required by law;  
 188 and

189 (B) excluding the investment earnings for the fiscal year and excluding any direct  
 190 legislative appropriation made to the Education Fund Budget Reserve Account for the fiscal  
 191 year.

192 [~~(ii) In~~] (b) (i) Except as provided in Subsection (3)(b)(ii), in addition to Subsection  
 193 [~~(2)~~] (3)(a)(i), if [a] an Education Fund revenue surplus exists and if, within the last ten years,  
 194 the Legislature has appropriated any money from the Education Fund Budget Reserve Account  
 195 that has not been replaced by appropriation or as provided in this Subsection [~~(2)(a)(ii)~~] (3)(b),  
 196 the Division of Finance shall[~~, before any contingent appropriations or other transfers required~~  
 197 by law are made,] transfer up to 25% more of the Education Fund revenue surplus to the  
 198 Education Fund Budget Reserve Account to replace the amounts appropriated, until direct  
 199 legislative appropriations, if any, and transfers [of] from the Education Fund revenue surplus  
 200 under this Subsection [~~(2)(a)(ii)~~] (3)(b) have replaced the appropriations from the [fund]  
 201 account.

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

204 (ii) If the transfer under Subsection (3)(b)(i) would cause the balance in the account to  
 205 exceed 7% of Education Fund appropriations for the fiscal year in which the Education Fund  
 206 revenue surplus occurred, the Division of Finance shall transfer only those funds necessary to  
 207 ensure that the balance in the account equals 7% of Education Fund appropriations for the  
 208 fiscal year in which the revenue surplus occurred.

209 (iii) The Division of Finance shall calculate the amount to be transferred under this  
 210 Subsection (3)(b):

211 (A) before transferring from the Education Fund revenue surplus any other year-end

212 contingency appropriations, year-end set-asides, or other year-end transfers required by law;  
213 and

214 (B) excluding the investment earnings for the fiscal year and excluding any direct  
215 legislative appropriation made to the Education Fund Budget Reserve Account for the fiscal  
216 year.

217 (c) For appropriations made by the Legislature to the Education Fund Budget Reserve  
218 Account, the Division of Finance shall treat those appropriations, unless specified otherwise in  
219 the appropriation, as replacement funds for appropriations made from the account if funds were  
220 appropriated from the account within the past ten years and have not yet been replaced.

221 (4) Notwithstanding Subsection (3), if, at the end of a fiscal year, the Division of  
222 Finance determines that an operating deficit exists, the Division of Finance may reduce the  
223 transfer to the Education Fund Budget Reserve Account by the amount necessary to eliminate  
224 the operating deficit.

225 ~~[(3)]~~ (5) [Any appropriation made by the] The Legislature may appropriate monies  
226 from the Education Fund Budget Reserve Account [may only be used to cover operating  
227 deficits in the state's public and higher education system] only to resolve an Education Fund  
228 budget deficit.

229 ~~[(4) All interest]~~ (6) Interest generated from investments of money in the Education  
230 Fund Budget Reserve Account shall be deposited into the account.

231 Section 3. Section **63-38-2.7** is amended to read:

232 **63-38-2.7. Deposits related to the Disaster Recovery Funding Act.**

233 (1) As used in this section, "operating deficit" means that, at the end of the fiscal year,  
234 the unreserved and undesignated fund balance in the General Fund is less than zero.

235 (2) Beginning with the fiscal year ending June 30, 2007, at the end of each fiscal year  
236 and after the transfer of surplus General Fund revenues has been made to the General Fund  
237 Budget Reserve Account as provided in Section 63-38-2.5, the Division of Finance shall  
238 deposit an amount into the State Disaster Recovery Restricted Account, created in Section  
239 53-2-403, calculated by:

240 ~~[(1)]~~ (a) determining the amount of surplus General Fund revenues after the transfer to  
241 the General Fund Budget Reserve Account under Section 63-38-2.5 that is unrestricted and  
242 undesignated;



243           ~~[(2)]~~ (b) calculating an amount equal to the lesser of:  
 244           ~~[(a)]~~ (i) 25% of the amount determined under Subsection ~~[(1)]~~ (2)(a); or  
 245           ~~[(b)]~~ (ii) 6% of the total of the General Fund appropriation amount ~~[and the Uniform~~  
 246 ~~School Fund appropriation amount]~~ for the fiscal year in which the surplus occurs; and  
 247           ~~[(3)]~~ (c) adding to the amount calculated under Subsection ~~[(2)]~~ (2)(b) an amount equal  
 248 to the lesser of:

249           ~~[(a)]~~ (i) 25% more of the amount described in Subsection ~~[(1)]~~ (2)(a); or  
 250           ~~[(b)]~~ (ii) the amount necessary to replace, in accordance with this Subsection ~~[(3)]~~  
 251 (2)(c), any amount appropriated from the State Disaster Recovery Restricted Account within  
 252 ten fiscal years before the fiscal year in which the surplus occurs if:  
 253           ~~[(i)]~~ (A) a surplus exists; and  
 254           ~~[(ii)]~~ (B) the Legislature appropriates money from the State Disaster Recovery  
 255 Restricted Account that is not replaced by appropriation or as provided in this Subsection ~~[(3)]~~  
 256 (2)(c).

257           (3) Notwithstanding Subsection (2), if, at the end of a fiscal year, the Division of  
 258 Finance determines that an operating deficit exists, the Division of Finance shall reduce the  
 259 transfer to the State Disaster Recovery Restricted Account by the amount necessary to  
 260 eliminate the operating deficit.

261           Section 4. ~~§~~→ [Section ~~63-38-2.9~~] **63J-1-205** ←~~§~~ is enacted to read:

262           ~~§~~→ [~~63-38-2.9~~] **63J-1-205** ←~~§~~ . **Revenue volatility report.**

263           (1) Beginning in 2011 and continuing every three years after 2011, the Legislative  
 264 Fiscal Analyst and the Governor's Office of Planning and Budget shall, by December 20,  
 265 submit a joint revenue volatility report to the Executive Appropriations Committee and Tax  
 266 Review Commission.

267           (2) The Legislative Fiscal Analyst and the Governor's Office of Planning and Budget  
 268 shall ensure that the report:

269           (a) discusses the tax base and the tax revenue volatility of the revenue streams that  
 270 provide the source of funding for the state budget;

271           (b) identifies the balances in the General Fund Budget Reserve Account and the  
 272 Education Fund Budget Reserve Account; and

273           (c) analyzes the adequacy of the balances in the General Fund Budget Reserve Account

274 and the Education Fund Budget Reserve Account in relation to the volatility of the revenue  
275 streams.

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**Fiscal Note****H.B. 49 1st Sub. (Buff) - Budget Reserve Account and Disaster Recovery  
Account Amendments**

2008 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations. During years in which an Education Fund revenue surplus occurs, the bill could increase the balance of the Education Fund Budget Reserve Account achieved through automatic end-of-year transfers from the surplus, up to an amount equal to seven percent of Education Fund appropriations for the fiscal year in which the surplus occurred.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

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