

**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**

**Committee Note:**

The Revenue and Taxation Interim Committee recommended this bill.

The Utah Tax Review Commission recommended this bill.

Membership: 6 legislators 10 non-legislators

Legislative Vote: 4 voting for 1 voting against 1 absent

**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



28 Commission on revenue volatility and its relation to the balances in the General Fund Budget  
29 Reserve Account and the Education Budget Reserve Account; and

30       ▶ makes technical changes.

31 **Monies Appropriated in this Bill:**

32       None

33 **Other Special Clauses:**

34       None

35 **Utah Code Sections Affected:**

36 AMENDS:

37       **63-38-2.5**, as last amended by Laws of Utah 2003, Chapters 88, and 319

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

39       **63-38-2.7**, as enacted by Laws of Utah 2007, Chapter 328

40 ENACTS:

41       **63-38-2.9**, Utah Code Annotated 1953



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

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

45       **63-38-2.5. Establishing a General Fund Budget Reserve Account -- Providing for**  
46 **deposits and expenditures from the account.**

47       (1) As used in this section:

48       (a) "Education Fund budget deficit" means a situation where appropriations made by  
49 the Legislature from the Education Fund for a fiscal year exceed the estimated revenues  
50 adopted by the Executive Appropriations Committee of the Legislature for the Education Fund  
51 in that fiscal year.

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

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

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

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

59 (d) "General Fund revenue surplus" means a situation where actual General Fund  
60 revenues collected in a completed fiscal year exceed the estimated revenues for the General  
61 Fund for that fiscal year that were adopted by the Executive Appropriations Committee of the  
62 Legislature.

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

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

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

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

83 (A) before transferring from the General Fund revenue surplus any other contingency  
84 appropriations, set asides, or other transfers required by law; and

85 (B) excluding the investment earnings for the fiscal year.

86 ~~[(ii) In]~~ (b) (i) Except as provided in Subsection (3)(b)(ii), in addition to Subsection  
87 ~~[(2)]~~ (3)(a)(i), if a General Fund revenue surplus exists and if, within the last ten years, the  
88 Legislature has appropriated any money from the General Fund Budget Reserve Account that  
89 has not been replaced by appropriation or as provided in this Subsection ~~[(2)(a)(ii)]~~ (3)(b), the

90 Division of Finance shall ~~[, before any contingent appropriations or other transfers required by~~  
91 ~~law are made,]~~ transfer up to 25% more of the General Fund revenue surplus to the General  
92 Fund Budget Reserve Account to replace the amounts appropriated, until legislative  
93 appropriations and transfers [of] from the General Fund revenue surplus under this Subsection  
94 ~~[(2)(a)(ii)]~~ (3)(b) have replaced the appropriations from the ~~[fund]~~ account.

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

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

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

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

106 (B) excluding the investment earnings for the fiscal year.

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

111 ~~[(3)]~~ (4) (a) If, at the close of any fiscal year, there appear to be insufficient monies to  
112 pay additional debt service for any bonded debt authorized by the Legislature, the Division of  
113 Finance may hold back monies from any General Fund revenue surplus sufficient to pay the  
114 additional debt service requirements resulting from issuance of bonded debt that was  
115 authorized by the Legislature.

116 (b) The Division of Finance may not spend the hold back amount for debt service  
117 under Subsection ~~[(3)]~~ (4)(a) unless and until it is appropriated by the Legislature.

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

121 transfer to the General Fund Budget Reserve Account by the amount necessary to cover the  
122 debt service hold back.

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

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

128 (5) The Legislature may appropriate monies from the General Fund Budget Reserve  
129 Account [may] only [be used] to [cover operating deficits];

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

132 (b) pay some or all of state settlement agreements approved under Title 63, Chapter  
133 38b, State Settlement Agreements[~~;~~ or];

134 (c) pay retroactive tax refunds[~~;~~ or

135 (d) resolve Education Fund budget deficits.

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

138 [~~(5) All~~] (6) Except as provided in Subsection (4)(b), interest generated from  
139 investments of money in the General Fund Budget Reserve Account shall be deposited into the  
140 account.

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

142 **63-38-2.6. Establishing an Education Budget Fund Reserve Account -- Providing**  
143 **for deposits and expenditures from the account.**

144 (1) As used in this section:

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

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

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

149 (b) "Education Fund budget deficit" means a situation where appropriations made by  
150 the Legislature from the Education Fund for a fiscal year exceed the estimated revenues  
151 adopted by the Executive Appropriations Committee of the Legislature for the Education Fund

152 in that fiscal year.

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

157 ~~[(1)]~~ (2) There is created within the Education Fund a restricted account to be known  
158 as the Education Fund Budget Reserve Account, which is designated to receive the legislative  
159 appropriations, investment earnings, and the surplus revenue required to be deposited into the  
160 account by this section.

161 ~~[(2)]~~ (3) (a) (i) ~~[At]~~ Except as provided in Subsection (3)(a)(ii), at the end of any fiscal  
162 year in which the Division of Finance, in consultation with the Legislative Fiscal Analyst and  
163 in conjunction with the completion of the annual audit by the state auditor, determines that  
164 there is [a] an Education Fund revenue surplus [in the Education Fund, the Uniform School  
165 Fund or both], the Division of Finance shall transfer 25% of the [cumulative] Education Fund  
166 revenue surplus [shall be transferred] to the Education Fund Budget Reserve Account[, except  
167 that the amount in the combined totals of].

168 (ii) If the transfer of 25% of the Education Fund revenue surplus to the Education Fund  
169 Budget Reserve Account [and the General Fund Budget Reserve Account created in Section  
170 63-38-2.5 may not exceed 6%] under Subsection (3)(a)(i) would cause the balance in the  
171 account to exceed 7% of Education Fund appropriations for the fiscal year in which the  
172 Education Fund revenue surplus occurred, the Division of Finance shall transfer only those  
173 funds necessary to ensure that the balance in the account equals 7% of the [total combined  
174 appropriations from the] Education Fund appropriations [and the General Fund] for the fiscal  
175 year in which the Education Fund revenue surplus occurred.

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

178 (A) before transferring from the Education Fund revenue surplus any other contingency  
179 appropriations, set-asides, or other transfers required by law; and

180 (B) excluding the investment earnings for the fiscal year.

181 ~~[(ii) In]~~ (b) (i) Except as provided in Subsection (3)(b)(ii), in addition to Subsection  
182 ~~[(2)]~~ (3)(a)(i), if [a] an Education Fund revenue surplus exists and if, within the last ten years,

183 the Legislature has appropriated any money from the Education Fund Budget Reserve Account  
 184 that has not been replaced by appropriation or as provided in this Subsection ~~[(2)(a)(ii)]~~ (3)(b),  
 185 the Division of Finance shall~~[, before any contingent appropriations or other transfers required~~  
 186 ~~by law are made,]~~ transfer up to 25% more of the Education Fund revenue surplus to the  
 187 Education Fund Budget Reserve Account to replace the amounts appropriated, until legislative  
 188 appropriations and transfers ~~[of]~~ from the Education Fund revenue surplus under this  
 189 Subsection ~~[(2)(a)(ii)]~~ (3)(b) have replaced the appropriations from the ~~[fund]~~ account.

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

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

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

199 (A) before transferring from the Education Fund revenue surplus any other contingency  
 200 appropriations, set-asides, or other transfers required by law; and

201 (B) excluding the investment earnings for the fiscal year.

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

206 ~~[(3)]~~ (4) ~~[Any appropriation made by the]~~ The Legislature may appropriate monies  
 207 from the Education Fund Budget Reserve Account ~~[may only be used to cover operating~~  
 208 deficits in the state's public and higher education system] only to resolve an Education Fund  
 209 budget deficit.

210 ~~[(4) All interest]~~ (5) Interest generated from investments of money in the Education  
 211 Fund Budget Reserve Account shall be deposited into the account.

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

213 **63-38-2.7. Deposits related to the Disaster Recovery Funding Act.**

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

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

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

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

224 (b) 6% of the total of the General Fund appropriation amount [~~and the Uniform School~~  
225 ~~Fund appropriation amount~~] for the fiscal year in which the surplus occurs; and

226 (3) adding to the amount calculated under Subsection (2) an amount equal to the lesser  
227 of:

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

229 (b) the amount necessary to replace in accordance with this Subsection (3) any amount  
230 appropriated from the State Disaster Recovery Restricted Account within ten fiscal years  
231 before the fiscal year in which the surplus occurs if:

232 (i) a surplus exists; and

233 (ii) the Legislature appropriates money from the State Disaster Recovery Restricted  
234 Account that is not replaced by appropriation or as provided in this Subsection (3).

235 Section 4. Section **63-38-2.9** is enacted to read:

236 **63-38-2.9. Revenue volatility report.**

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

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

243 (a) discusses the revenue volatility of the revenue streams that provide the source of  
244 funding for the state budget;



245           (b) identifies the balances in the General Fund Budget Reserve Account and the  
246 Education Fund Budget Reserve Account; and

247           (c) analyzes the adequacy of the balances in the General Fund Budget Reserve Account  
248 and the Education Fund Budget Reserve Account in relation to the volatility of the revenue  
249 streams.

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**Legislative Review Note**  
as of 11-15-07 12:38 PM

**Office of Legislative Research and General Counsel**

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**Fiscal Note****H.B. 49 - 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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