

**DEPOSIT OF INTEREST EARNED ON
RESTRICTED FUNDS**

2008 SECOND SPECIAL SESSION

STATE OF UTAH

Chief Sponsor: Lyle W. Hillyard

House Sponsor: Ron Bigelow

LONG TITLE

General Description:

This bill modifies provisions relating to the deposit of interest from the General Fund Budget Reserve Account and the Education Fund Budget Reserve Account.

Highlighted Provisions:

This bill:

- ▶ provides that interest generated from funds in the General Fund Budget Reserve Account (the "Rainy Day Fund") be deposited into the General Fund rather than the General Fund Budget Reserve Account;
- ▶ provides that interest generated from funds in the Education Fund Budget Reserve Account be deposited into the ~~H~~→ [General] Education ←H Fund rather than the Education Fund Budget Reserve Account; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

Utah Code Sections Affected:

AMENDS:

63J-1-202, as last amended by Laws of Utah 2008, Chapter 138 and renumbered and



amended by Laws of Utah 2008, Chapter 382

63J-1-203, as last amended by Laws of Utah 2008, Chapter 138 and renumbered and amended by Laws of Utah 2008, Chapter 382

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

Section 1. Section **63J-1-202** is amended to read:

63J-1-202. Establishing a General Fund Budget Reserve Account -- Providing for deposits and expenditures from the account -- Providing for interest generated by the account.

(1) As used in this section:

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

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

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

(ii) identified as coming from the General Fund.

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

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

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

(2) 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 legislative appropriations, investment earnings, and the surplus revenue required to be deposited into the account by this section.

(3) (a) (i) Except as provided in Subsection (3)(a)(ii), at the end of any fiscal year in which the Division of Finance, in consultation with the Legislative Fiscal Analyst and in conjunction with the completion of the annual audit by the state auditor, determines that there is a General Fund revenue surplus, the Division of Finance shall transfer 25% of the General Fund revenue surplus to the General Fund Budget Reserve Account.

(ii) If the transfer of 25% of the General Fund revenue surplus to the General Fund Budget Reserve Account would cause the balance in the account to exceed 6% of General Fund appropriations for the fiscal year in which the revenue surplus occurred, the Division of Finance shall transfer only those funds necessary to ensure that the balance in the account equals 6% of General Fund appropriations for the fiscal year in which the General Fund revenue surplus occurred.

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

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

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

(b) (i) Except as provided in Subsection (3)(b)(ii), in addition to Subsection (3)(a)(i), if a General Fund revenue 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 (3)(b), the Division of Finance shall transfer up to 25% more of the General Fund revenue surplus to the General Fund Budget Reserve Account to replace the amounts appropriated, until direct legislative appropriations, if any, and transfers from the General Fund revenue surplus under this Subsection (3)(b) have replaced the appropriations from the account.

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

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

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

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

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

102 (4) (a) If, at the close of any fiscal year, there appear to be insufficient monies to pay
103 additional debt service for any bonded debt authorized by the Legislature, the Division of
104 Finance may hold back from any General Fund revenue surplus monies sufficient to pay the
105 additional debt service requirements resulting from issuance of bonded debt that was
106 authorized by the Legislature.

107 (b) The Division of Finance may not spend the hold back amount for debt service
108 under Subsection (4)(a) unless and until it is appropriated by the Legislature.

109 (c) If, after calculating the amount for transfers to the General Fund Budget Reserve
110 Account, the remaining General Fund revenue surplus is insufficient to cover the hold back for
111 debt service required by Subsection (4)(a), the Division of Finance shall reduce the transfer to
112 the General Fund Budget Reserve Account by the amount necessary to cover the debt service
113 hold back.

114 (d) Notwithstanding Subsection (3), the Division of Finance shall hold back the
115 General Fund balance for debt service authorized by this Subsection (4) before making any
116 transfers to the General Fund Budget Reserve Account or any other designation or allocation of
117 General Fund revenue surplus.

118 (5) Notwithstanding Subsection (3), if, at the end of a fiscal year, the Division of
119 Finance determines that an operating deficit exists and that holding back the transfers to the
120 State Disaster Recovery Restricted Account under Section 63J-1-204 does not eliminate the

operating deficit, the Division of Finance may reduce the transfer to the General Fund Budget Reserve Account by the amount necessary to eliminate the operating deficit.

(6) The Legislature may appropriate monies from the General Fund Budget Reserve Account only to:

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

(b) pay some or all of state settlement agreements approved under Title 63G, Chapter 10, State Settlement Agreements Act;

(c) pay retroactive tax refunds; or

(d) resolve an Education Fund budget deficit.

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

Section 2. Section **63J-1-203** is amended to read:

63J-1-203. Establishing an Education Budget Reserve Account -- Providing for deposits and expenditures from the account -- Providing for interest generated by the account.

(1) As used in this section:

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

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

(ii) identified as coming from the Education Fund.

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

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

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

152 (2) There is created within the Education Fund a restricted account to be known as the
153 Education Fund Budget Reserve Account, which is designated to receive the legislative
154 appropriations, investment earnings, and the surplus revenue required to be deposited into the
155 account by this section.

156 (3) (a) (i) Except as provided in Subsection (3)(a)(ii), at the end of any fiscal year in
157 which the Division of Finance, in consultation with the Legislative Fiscal Analyst and in
158 conjunction with the completion of the annual audit by the state auditor, determines that there
159 is an Education Fund revenue surplus, the Division of Finance shall transfer 25% of the
160 Education Fund revenue surplus to the Education Fund Budget Reserve Account.

161 (ii) If the transfer of 25% of the Education Fund revenue surplus to the Education Fund
162 Budget Reserve Account under Subsection (3)(a)(i) would cause the balance in the account to
163 exceed 7% of Education Fund appropriations for the fiscal year in which the Education Fund
164 revenue surplus occurred, the Division of Finance shall transfer only those funds necessary to
165 ensure that the balance in the account equals 7% of the Education Fund appropriations for the
166 fiscal year in which the Education Fund revenue surplus occurred.

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

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

172 (B) excluding the investment earnings for the fiscal year and excluding any direct
173 legislative appropriation made to the Education Fund Budget Reserve Account for the fiscal
174 year.

175 (b) (i) Except as provided in Subsection (3)(b)(ii), in addition to Subsection (3)(a)(i), if
176 an Education Fund revenue surplus exists and if, within the last ten years, the Legislature has
177 appropriated any money from the Education Fund Budget Reserve Account that has not been
178 replaced by appropriation or as provided in this Subsection (3)(b), the Division of Finance shall
179 transfer up to 25% more of the Education Fund revenue surplus to the Education Fund Budget
180 Reserve Account to replace the amounts appropriated, until direct legislative appropriations, if
181 any, and transfers from the Education Fund revenue surplus under this Subsection (3)(b) have
182 replaced the appropriations from the account.

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

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

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

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

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

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

(5) The Legislature may appropriate monies from the Education Fund Budget Reserve Account only to resolve an Education Fund budget deficit.

(6) Interest generated from investments of money in the Education Fund Budget Reserve Account shall be deposited into the [account] ~~H~~→ **[General]** Education ←~~H~~ Fund.

Section 3. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

Legislative Review Note
as of 9-26-08 7:58 AM

Office of Legislative Research and General Counsel