

**BUDGET RESERVE ACCOUNTS AMENDMENTS**

2012 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Ken Ivory**

Senate Sponsor: Casey O. Anderson

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**LONG TITLE**

**General Description:**

This bill recodifies, renames, and amends Title 63J, Chapter 1, Part 3, Budget-Related Restricted Accounts, creates a restricted account for the purpose of funding programs or services currently provided through federal funding in the event that the federal funding is reduced, describes the funding of the account, and describes the interaction of this new restricted account with other restricted accounts in the same part.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ recodifies and renames Title 63J, Chapter 1, Part 3, Budget-Related Restricted Accounts;
- ▶ creates a restricted account for the purpose of funding programs or services currently provided through federal funding in the event that the federal funding is reduced;
- ▶ describes the interaction of the restricted account described in the preceding paragraph with other restricted accounts in Title 63J, Chapter 1, Part 3, Budget-Related Restricted Accounts;
- ▶ describes the funding of the account created in this bill; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**



28 None

29 **Other Special Clauses:**

30 This bill takes effect on July 1, 2012.

31 **Utah Code Sections Affected:**

32 **AMENDS:**

33 **51-9-202**, as last amended by Laws of Utah 2011, Chapter 119

34 **53-2-403**, as last amended by Laws of Utah 2011, Chapter 342

35 **53A-17a-146 (Effective 07/01/12)**, as last amended by Laws of Utah 2011, Chapters

36 371 and 381

37 **59-12-103**, as last amended by Laws of Utah 2011, Chapters 285, 303, 342, and 441

38 **63A-5-104**, as last amended by Laws of Utah 2011, Chapters 219 and 409

39 **63J-1-201**, as last amended by Laws of Utah 2011, Chapters 334 and 378

40 **63J-1-201.7**, as enacted by Laws of Utah 2011, Chapter 378

41 **63J-1-217**, as renumbered and amended by Laws of Utah 2009, Chapters 183 and 368

42 **63J-3-103**, as last amended by Laws of Utah 2010, Chapter 137

43 **63M-1-905**, as last amended by Laws of Utah 2011, Chapters 211 and 303

44 **ENACTS:**

45 **63J-1-316**, Utah Code Annotated 1953

46 **63J-1-317**, Utah Code Annotated 1953

47 **63J-1-320**, Utah Code Annotated 1953

48 **RENUMBERS AND AMENDS:**

49 **63J-1-318**, (Renumbered from 63J-1-315, as enacted by Laws of Utah 2011, Chapter  
50 211)

51 **63J-1-319**, (Renumbered from 63J-1-312, as last amended by Laws of Utah 2011,  
52 Chapters 211, 303, and 342)

53 **63J-1-321**, (Renumbered from 63J-1-314, as last amended by Laws of Utah 2011,  
54 Chapters 211 and 303)

55 **63J-1-322**, (Renumbered from 63J-1-313, as last amended by Laws of Utah 2011,  
56 Chapter 303)

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

59 Section 1. Section **51-9-202** is amended to read:

60 **51-9-202. Permanent state trust fund.**

61 [~~(1) Until July 1, 2003, 50% of all funds of every kind that are received by the state~~  
62 ~~that are related to the settlement agreement that the state entered into with leading tobacco~~  
63 ~~manufacturers on November 23, 1998, shall be deposited into the permanent state trust fund~~  
64 ~~created by and operated under Utah Constitution Article XXII, Section 4.~~]

65 [~~(2) On and after July 1, 2003 and until July 1, 2004 20% of the funds of any kind~~  
66 ~~received by the state that are related to the settlement agreement that the state entered into with~~  
67 ~~leading tobacco manufacturers shall be deposited into the permanent state trust fund created by~~  
68 ~~and operated under Utah Constitution Article XXII, Section 4.~~]

69 [~~(3) On and after July 1, 2004 and until July 1, 2005, 30% of all funds of any kind~~  
70 ~~received by the state that are related to the settlement agreement that the state entered into with~~  
71 ~~leading tobacco manufacturers shall be deposited into the General Fund Budget Reserve~~  
72 ~~Account created in Section 63J-1-312.~~]

73 [~~(4) On and after July 1, 2005 and until July 1, 2007, 25% of all funds of any kind~~  
74 ~~received by the state that are related to the settlement agreement that the state entered into with~~  
75 ~~leading tobacco manufacturers shall be deposited into the permanent state trust fund created by~~  
76 ~~and operated under Utah Constitution Article XXII, Section 4.~~]

77 [~~(5) On and after July 1, 2007, 40%~~]

78 (1) Forty percent of all funds of every kind that are received by the state that are related  
79 to the settlement agreement that the state entered into with leading tobacco manufacturers on  
80 November 23, 1998, shall be deposited into the General Fund and the remaining funds  
81 deposited as directed.

82 [~~(6)~~ (2) Funds in the permanent state trust fund shall be deposited or invested pursuant  
83 to Section 51-7-12.1.

84 [~~(7)~~ (3) (a) In accordance with Utah Constitution Article XXII, Section 4, the interest  
85 and dividends earned annually from the permanent state trust fund shall be deposited in the  
86 General Fund. There shall be transferred on an ongoing basis from the General Fund to the  
87 permanent state trust fund created under Utah Constitution Article XXII, Section 4, an amount  
88 equal to 50% of the interest and dividends earned annually from the permanent state trust fund.  
89 The amount transferred into the fund under this Subsection [~~(7)~~ (3)(a) shall be treated as

90 principal.

91 (b) Any annual interest or dividends earned from the permanent state trust fund that  
92 remain in the General Fund after Subsection [~~(7)~~] (3)(a) may be appropriated by the  
93 Legislature.

94 (c) Any realized or unrealized gains or losses on investments in the permanent state  
95 trust fund shall remain in the permanent state trust fund.

96 [~~(8)~~] (4) This section does not apply to funds deposited under Chapter 9, Part 3,  
97 Infrastructure and Economic Diversification Investment Account and Deposit of Certain  
98 Severance Taxes into Permanent State Trust Fund Act, into the permanent state trust fund.

99 Section 2. Section **53-2-403** is amended to read:

100 **53-2-403. State Disaster Recovery Restricted Account.**

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

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

104 (i) money deposited into the disaster recovery fund in accordance with Section  
105 [~~63J-1-314~~] 63J-1-321;

106 (ii) money appropriated to the disaster recovery fund by the Legislature; and

107 (iii) any other public or private money received by the division that is:

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

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

110 (I) the division; or

111 (II) the person giving the money.

112 (c) The Division of Finance shall deposit interest or other earnings derived from  
113 investment of fund money into the General Fund.

114 (d) Subject to being appropriated by the Legislature, money in the disaster recovery  
115 fund may only be expended or committed to be expended as follows:

116 (i) (A) subject to Section 53-2-406, in any fiscal year the division may expend or  
117 commit to expend an amount that does not exceed \$250,000, in accordance with Section  
118 53-2-404, to fund costs to the state of emergency disaster services in response to a declared  
119 disaster;

120 (B) subject to Section 53-2-406, in any fiscal year the division may expend or commit

121 to expend an amount that exceeds \$250,000, but does not exceed \$1,000,000, in accordance  
122 with Section 53-2-404, to fund costs to the state of emergency disaster services in response to a  
123 declared disaster if the division:

124 (I) before making the expenditure or commitment to expend, obtains approval for the  
125 expenditure or commitment to expend from the governor;

126 (II) subject to Subsection (4), provides written notice of the expenditure or  
127 commitment to expend to the speaker of the House of Representatives, the president of the  
128 Senate, the Division of Finance, and the Office of the Legislative Fiscal Analyst no later than  
129 72 hours after making the expenditure or commitment to expend; and

130 (III) makes the report required by Subsection 53-2-406(2); and

131 (C) subject to Section 53-2-406, in any fiscal year the division may expend or commit  
132 to expend an amount that exceeds \$1,000,000, but does not exceed \$3,000,000, in accordance  
133 with Section 53-2-404, to fund costs to the state of emergency disaster services in response to a  
134 declared disaster if, before making the expenditure or commitment to expend, the division:

135 (I) obtains approval for the expenditure or commitment to expend from the governor;  
136 and

137 (II) submits the expenditure or commitment to expend to the Executive Appropriations  
138 Committee in accordance with Subsection 53-2-406(3); and

139 (ii) subject to being appropriated by the Legislature, money not described in Subsection  
140 (1)(d)(i) may be expended or committed to be expended to fund costs to the state directly  
141 related to a declared disaster that are not costs related to:

142 (A) emergency disaster services;

143 (B) emergency preparedness; or

144 (C) notwithstanding whether or not a county participates in the Wildland Fire  
145 Suppression Fund created in Section 65A-8-204, any fire suppression or presuppression costs  
146 that may be paid for from the Wildland Fire Suppression Fund if the county participates in the  
147 Wildland Fire Suppression Fund.

148 (2) The state treasurer shall invest money in the disaster recovery fund according to  
149 Title 51, Chapter 7, State Money Management Act.

150 (3) (a) Except as provided in Subsection (1), the money in the disaster recovery fund  
151 may not be diverted, appropriated, expended, or committed to be expended for a purpose that is

152 not listed in this section.

153 (b) Notwithstanding Section 63J-1-410, the Legislature may not appropriate money  
154 from the disaster recovery fund to eliminate or otherwise reduce an operating deficit if the  
155 money appropriated from the disaster recovery fund is expended or committed to be expended  
156 for a purpose other than one listed in this section.

157 (c) The Legislature may not amend the purposes for which money in the disaster  
158 recovery fund may be expended or committed to be expended except by the affirmative vote of  
159 two-thirds of all the members elected to each house.

160 (4) The division:

161 (a) shall provide the notice required by Subsection (1)(d)(i)(B) using the best available  
162 method under the circumstances as determined by the division; and

163 (b) may provide the notice required by Subsection (1)(d)(i)(B) in electronic format.

164 Section 3. Section **53A-17a-146 (Effective 07/01/12)** is amended to read:

165 **53A-17a-146 (Effective 07/01/12). Reduction of district allocation based on**  
166 **insufficient revenues.**

167 (1) As used in this section, "Minimum School Program funds" means the total of state  
168 and local funds appropriated for the Minimum School Program, excluding:

169 (a) the state-supported voted local levy program pursuant to Section 53A-17a-133;

170 (b) the state-supported board local levy program pursuant to Section 53A-17a-164; and

171 (c) the appropriation to charter schools to replace local property tax revenues pursuant  
172 to Section 53A-1a-513.

173 (2) If the Legislature reduces appropriations made to support public schools under this  
174 chapter because an Education Fund budget deficit, as defined in Section [~~63J-1-312~~]

175 63J-1-317, exists, the State Board of Education, after consultation with each school district and  
176 charter school, shall allocate the reduction among school districts and charter schools in  
177 proportion to each school district's or charter school's percentage share of Minimum School  
178 Program funds.

179 (3) Except as provided in Subsection (5) and subject to the requirements of Subsection  
180 (7), a school district or charter school shall determine which programs are affected by a  
181 reduction pursuant to Subsection (2) and the amount each program is reduced.

182 (4) Except as provided in Subsections (5) and (6), the requirement to spend a specified

183 amount in any particular program is waived if reductions are made pursuant to Subsection (2).

184 (5) A school district or charter school may not reduce or reallocate spending of funds  
185 distributed to the school district or charter school for the following programs:

- 186 (a) educator salary adjustments provided in Section 53A-17a-153;
- 187 (b) the Teacher Salary Supplement Program provided in Section 53A-17a-156;
- 188 (c) the extended year for special educators provided in Section 53A-17a-158;
- 189 (d) USTAR centers provided in Section 53A-17a-159;
- 190 (e) the School LAND Trust Program created in Section 53A-16-101.5; or
- 191 (f) a special education program within the Basic School Program.

192 (6) A school district or charter school may not reallocate spending of funds distributed  
193 to the school district or charter school to a reserve account.

194 (7) A school district or charter school that reduces or reallocates funds in accordance  
195 with this section shall report all transfers into, or out of, Minimum School Program programs  
196 to the State Board of Education as part of the school district or charter school's Annual  
197 Financial and Program report.

198 Section 4. Section **59-12-103** is amended to read:

199 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**  
200 **tax revenues.**

201 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or  
202 charged for the following transactions:

- 203 (a) retail sales of tangible personal property made within the state;
- 204 (b) amounts paid for:
  - 205 (i) telecommunications service, other than mobile telecommunications service, that  
206 originates and terminates within the boundaries of this state;
  - 207 (ii) mobile telecommunications service that originates and terminates within the  
208 boundaries of one state only to the extent permitted by the Mobile Telecommunications  
209 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
  - 210 (iii) an ancillary service associated with a:
    - 211 (A) telecommunications service described in Subsection (1)(b)(i); or
    - 212 (B) mobile telecommunications service described in Subsection (1)(b)(ii);
    - 213 (c) sales of the following for commercial use:

- 214 (i) gas;
- 215 (ii) electricity;
- 216 (iii) heat;
- 217 (iv) coal;
- 218 (v) fuel oil; or
- 219 (vi) other fuels;
- 220 (d) sales of the following for residential use:
  - 221 (i) gas;
  - 222 (ii) electricity;
  - 223 (iii) heat;
  - 224 (iv) coal;
  - 225 (v) fuel oil; or
  - 226 (vi) other fuels;
  - 227 (e) sales of prepared food;
  - 228 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
  - 229 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
  - 230 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
  - 231 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
  - 232 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
  - 233 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
  - 234 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
  - 235 horseback rides, sports activities, or any other amusement, entertainment, recreation,
  - 236 exhibition, cultural, or athletic activity;
  - 237 (g) amounts paid or charged for services for repairs or renovations of tangible personal
  - 238 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
    - 239 (i) the tangible personal property; and
    - 240 (ii) parts used in the repairs or renovations of the tangible personal property described
    - 241 in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations
    - 242 of that tangible personal property;
    - 243 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
    - 244 assisted cleaning or washing of tangible personal property;



245 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court  
246 accommodations and services that are regularly rented for less than 30 consecutive days;  
247 (j) amounts paid or charged for laundry or dry cleaning services;  
248 (k) amounts paid or charged for leases or rentals of tangible personal property if within  
249 this state the tangible personal property is:  
250 (i) stored;  
251 (ii) used; or  
252 (iii) otherwise consumed;  
253 (l) amounts paid or charged for tangible personal property if within this state the  
254 tangible personal property is:  
255 (i) stored;  
256 (ii) used; or  
257 (iii) consumed; and  
258 (m) amounts paid or charged for a sale:  
259 (i) (A) of a product transferred electronically; or  
260 (B) of a repair or renovation of a product transferred electronically; and  
261 (ii) regardless of whether the sale provides:  
262 (A) a right of permanent use of the product; or  
263 (B) a right to use the product that is less than a permanent use, including a right:  
264 (I) for a definite or specified length of time; and  
265 (II) that terminates upon the occurrence of a condition.  
266 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax  
267 is imposed on a transaction described in Subsection (1) equal to the sum of:  
268 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:  
269 (A) 4.70%; and  
270 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales  
271 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211  
272 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional  
273 State Sales and Use Tax Act; and  
274 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales  
275 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211

276 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state  
277 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

278 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
279 transaction under this chapter other than this part.

280 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed  
281 on a transaction described in Subsection (1)(d) equal to the sum of:

282 (i) a state tax imposed on the transaction at a tax rate of 2%; and

283 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
284 transaction under this chapter other than this part.

285 (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed  
286 on amounts paid or charged for food and food ingredients equal to the sum of:

287 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at  
288 a tax rate of 1.75%; and

289 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
290 amounts paid or charged for food and food ingredients under this chapter other than this part.

291 (d) (i) For a bundled transaction that is attributable to food and food ingredients and  
292 tangible personal property other than food and food ingredients, a state tax and a local tax is  
293 imposed on the entire bundled transaction equal to the sum of:

294 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

295 (I) the tax rate described in Subsection (2)(a)(i)(A); and

296 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State  
297 Sales and Use Tax Act, if the location of the transaction as determined under Sections  
298 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,  
299 Additional State Sales and Use Tax Act; and

300 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State  
301 Sales and Use Tax Act, if the location of the transaction as determined under Sections  
302 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which  
303 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

304 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates  
305 described in Subsection (2)(a)(ii).

306 (ii) Subject to Subsection (2)(d)(iii), for a bundled transaction other than a bundled

307 transaction described in Subsection (2)(d)(i):

308 (A) if the sales price of the bundled transaction is attributable to tangible personal  
309 property, a product, or a service that is subject to taxation under this chapter and tangible  
310 personal property, a product, or service that is not subject to taxation under this chapter, the  
311 entire bundled transaction is subject to taxation under this chapter unless:

312 (I) the seller is able to identify by reasonable and verifiable standards the tangible  
313 personal property, product, or service that is not subject to taxation under this chapter from the  
314 books and records the seller keeps in the seller's regular course of business; or

315 (II) state or federal law provides otherwise; or

316 (B) if the sales price of a bundled transaction is attributable to two or more items of  
317 tangible personal property, products, or services that are subject to taxation under this chapter  
318 at different rates, the entire bundled transaction is subject to taxation under this chapter at the  
319 higher tax rate unless:

320 (I) the seller is able to identify by reasonable and verifiable standards the tangible  
321 personal property, product, or service that is subject to taxation under this chapter at the lower  
322 tax rate from the books and records the seller keeps in the seller's regular course of business; or

323 (II) state or federal law provides otherwise.

324 (iii) For purposes of Subsection (2)(d)(ii), books and records that a seller keeps in the  
325 seller's regular course of business includes books and records the seller keeps in the regular  
326 course of business for nontax purposes.

327 (e) Subject to Subsections (2)(f) and (g), a tax rate repeal or tax rate change for a tax  
328 rate imposed under the following shall take effect on the first day of a calendar quarter:

329 (i) Subsection (2)(a)(i)(A);

330 (ii) Subsection (2)(b)(i);

331 (iii) Subsection (2)(c)(i); or

332 (iv) Subsection (2)(d)(i)(A)(I).

333 (f) (i) A tax rate increase shall take effect on the first day of the first billing period that  
334 begins after the effective date of the tax rate increase if the billing period for the transaction  
335 begins before the effective date of a tax rate increase imposed under:

336 (A) Subsection (2)(a)(i)(A);

337 (B) Subsection (2)(b)(i);

- 338 (C) Subsection (2)(c)(i); or
- 339 (D) Subsection (2)(d)(i)(A)(I).

340 (ii) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last  
341 billing period that began before the effective date of the repeal of the tax or the tax rate  
342 decrease if the billing period for the transaction begins before the effective date of the repeal of  
343 the tax or the tax rate decrease imposed under:

- 344 (A) Subsection (2)(a)(i)(A);
- 345 (B) Subsection (2)(b)(i);
- 346 (C) Subsection (2)(c)(i); or
- 347 (D) Subsection (2)(d)(i)(A)(I).

348 (g) (i) For a tax rate described in Subsection (2)(g)(ii), if a tax due on a catalogue sale  
349 is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal  
350 or change in a tax rate takes effect:

- 351 (A) on the first day of a calendar quarter; and
- 352 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

353 (ii) Subsection (2)(g)(i) applies to the tax rates described in the following:

- 354 (A) Subsection (2)(a)(i)(A);
- 355 (B) Subsection (2)(b)(i);
- 356 (C) Subsection (2)(c)(i); or
- 357 (D) Subsection (2)(d)(i)(A)(I).

358 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
359 the commission may by rule define the term "catalogue sale."

360 (3) (a) The following state taxes shall be deposited into the General Fund:

- 361 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 362 (ii) the tax imposed by Subsection (2)(b)(i);
- 363 (iii) the tax imposed by Subsection (2)(c)(i); or
- 364 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

365 (b) The following local taxes shall be distributed to a county, city, or town as provided  
366 in this chapter:

- 367 (i) the tax imposed by Subsection (2)(a)(ii);
- 368 (ii) the tax imposed by Subsection (2)(b)(ii);

369 (iii) the tax imposed by Subsection (2)(c)(ii); and  
370 (iv) the tax imposed by Subsection (2)(d)(i)(B).

371 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
372 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)  
373 through (g):

374 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:  
375 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and  
376 (B) for the fiscal year; or  
377 (ii) \$17,500,000.

378 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount  
379 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the  
380 Department of Natural Resources to:

381 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to  
382 protect sensitive plant and animal species; or  
383 (B) award grants, up to the amount authorized by the Legislature in an appropriations  
384 act, to political subdivisions of the state to implement the measures described in Subsections  
385 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

386 (ii) Money transferred to the Department of Natural Resources under Subsection  
387 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other  
388 person to list or attempt to have listed a species as threatened or endangered under the  
389 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

390 (iii) At the end of each fiscal year:

391 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources  
392 Conservation and Development Fund created in Section 73-10-24;

393 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan  
394 Program Subaccount created in Section 73-10c-5; and

395 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan  
396 Program Subaccount created in Section 73-10c-5.

397 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in  
398 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund  
399 created in Section 4-18-6.

400 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described  
401 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water  
402 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of  
403 water rights.

404 (ii) At the end of each fiscal year:

405 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources  
406 Conservation and Development Fund created in Section 73-10-24;

407 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan  
408 Program Subaccount created in Section 73-10c-5; and

409 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan  
410 Program Subaccount created in Section 73-10c-5.

411 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described  
412 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development  
413 Fund created in Section 73-10-24 for use by the Division of Water Resources.

414 (ii) In addition to the uses allowed of the Water Resources Conservation and  
415 Development Fund under Section 73-10-24, the Water Resources Conservation and  
416 Development Fund may also be used to:

417 (A) conduct hydrologic and geotechnical investigations by the Division of Water  
418 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of  
419 quantifying surface and ground water resources and describing the hydrologic systems of an  
420 area in sufficient detail so as to enable local and state resource managers to plan for and  
421 accommodate growth in water use without jeopardizing the resource;

422 (B) fund state required dam safety improvements; and

423 (C) protect the state's interest in interstate water compact allocations, including the  
424 hiring of technical and legal staff.

425 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described  
426 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount  
427 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

428 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described  
429 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount  
430 created in Section 73-10c-5 for use by the Division of Drinking Water to:

431 (i) provide for the installation and repair of collection, treatment, storage, and  
432 distribution facilities for any public water system, as defined in Section 19-4-102;  
433 (ii) develop underground sources of water, including springs and wells; and  
434 (iii) develop surface water sources.

435 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
436 2006, the difference between the following amounts shall be expended as provided in this  
437 Subsection (5), if that difference is greater than \$1:

438 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the  
439 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and  
440 (ii) \$17,500,000.

441 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:  
442 (A) transferred each fiscal year to the Department of Natural Resources as dedicated  
443 credits; and  
444 (B) expended by the Department of Natural Resources for watershed rehabilitation or  
445 restoration.

446 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described  
447 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund  
448 created in Section 73-10-24.

449 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the  
450 remaining difference described in Subsection (5)(a) shall be:  
451 (A) transferred each fiscal year to the Division of Water Resources as dedicated  
452 credits; and  
453 (B) expended by the Division of Water Resources for cloud-seeding projects  
454 authorized by Title 73, Chapter 15, Modification of Weather.

455 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described  
456 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund  
457 created in Section 73-10-24.

458 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the  
459 remaining difference described in Subsection (5)(a) shall be deposited into the Water  
460 Resources Conservation and Development Fund created in Section 73-10-24 for use by the  
461 Division of Water Resources for:

462 (i) preconstruction costs:  
463 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter  
464 26, Bear River Development Act; and  
465 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project  
466 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;  
467 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,  
468 Chapter 26, Bear River Development Act;  
469 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project  
470 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and  
471 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and  
472 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).  
473 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to  
474 Subsection (5)(f), 6% of the remaining difference described in Subsection (5)(a) shall be  
475 transferred each year as dedicated credits to the Division of Water Rights to cover the costs  
476 incurred for employing additional technical staff for the administration of water rights.  
477 (f) At the end of each fiscal year, any unexpended dedicated credits described in  
478 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development  
479 Fund created in Section 73-10-24.  
480 (6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
481 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16%  
482 tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in  
483 the Transportation Fund created by Section 72-2-102.  
484 (7) (a) Notwithstanding Subsection (3)(a) and until Subsection (7)(b) applies,  
485 beginning on January 1, 2000, the Division of Finance shall deposit into the Centennial  
486 Highway Fund Restricted Account created in Section 72-2-118 a portion of the taxes listed  
487 under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable  
488 transactions under Subsection (1).  
489 (b) Notwithstanding Subsection (3)(a), when the highway general obligation bonds  
490 have been paid off and the highway projects completed that are intended to be paid from  
491 revenues deposited in the Centennial Highway Fund Restricted Account as determined by the  
492 Executive Appropriations Committee under Subsection 72-2-118(6)(d), the Division of



493 Finance shall deposit into the Transportation Investment Fund of 2005 created by Section  
494 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated  
495 by a 1/64% tax rate on the taxable transactions under Subsection (1).

496 (8) (a) Notwithstanding Subsection (3)(a) and in addition to the amount deposited in  
497 Subsection (7)(a), for the 2010-11 fiscal year only, the Division of Finance shall deposit into  
498 the Centennial Highway Fund Restricted Account created by Section 72-2-118 a portion of the  
499 taxes listed under Subsection (3)(a) equal to 1.93% of the revenues collected from the  
500 following taxes, which represents a portion of the approximately 17% of sales and use tax  
501 revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

- 502 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 503 (ii) the tax imposed by Subsection (2)(b)(i);
- 504 (iii) the tax imposed by Subsection (2)(c)(i); and
- 505 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

506 (b) Notwithstanding Subsection (3)(a), in addition to the amount deposited in  
507 Subsection (7)(a), and until Subsection (8)(c) applies, for the 2011-12 fiscal year only, the  
508 Division of Finance shall deposit into the Centennial Highway Fund Restricted Account  
509 created by Section 72-2-118 a portion of the taxes listed under Subsection (3)(a) equal to 8.3%  
510 of the revenues collected from the following taxes, which represents a portion of the  
511 approximately 17% of sales and use tax revenues generated annually by the sales and use tax  
512 on vehicles and vehicle-related products:

- 513 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 514 (ii) the tax imposed by Subsection (2)(b)(i);
- 515 (iii) the tax imposed by Subsection (2)(c)(i); and
- 516 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

517 (c) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under  
518 Subsection (7)(b), and until Subsection (8)(d) or (e) applies, when the highway general  
519 obligation bonds have been paid off and the highway projects completed that are intended to be  
520 paid from revenues deposited in the Centennial Highway Fund Restricted Account as  
521 determined by the Executive Appropriations Committee under Subsection 72-2-118(6)(d), the  
522 Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by  
523 Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to 8.3% of the

524 revenues collected from the following taxes, which represents a portion of the approximately  
525 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and  
526 vehicle-related products:

- 527 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 528 (ii) the tax imposed by Subsection (2)(b)(i);
- 529 (iii) the tax imposed by Subsection (2)(c)(i); and
- 530 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

531 (d) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in  
532 Subsection (7)(a), until Subsection (8)(e) applies, and subject to Subsection (8)(f), for a fiscal  
533 year beginning on or after July 1, 2012, the Division of Finance shall deposit into the  
534 Centennial Highway Fund Restricted Account created by Section 72-2-118:

535 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of  
536 the revenues collected from the following taxes, which represents a portion of the  
537 approximately 17% of sales and use tax revenues generated annually by the sales and use tax  
538 on vehicles and vehicle-related products:

- 539 (A) the tax imposed by Subsection (2)(a)(i)(A);
- 540 (B) the tax imposed by Subsection (2)(b)(i);
- 541 (C) the tax imposed by Subsection (2)(c)(i); and
- 542 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

543 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the  
544 current fiscal year from the sales and use taxes described in Subsections (8)(d)(i)(A) through  
545 (D) that exceeds the amount collected from the sales and use taxes described in Subsections  
546 (8)(d)(i)(A) through (D) in the 2010-11 fiscal year.

547 (e) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under  
548 Subsection (7)(b), and subject to Subsection (8)(f), when the highway general obligation bonds  
549 have been paid off and the highway projects completed that are intended to be paid from  
550 revenues deposited in the Centennial Highway Fund Restricted Account as determined by the  
551 Executive Appropriations Committee under Subsection 72-2-118(6)(d), for a fiscal year  
552 beginning on or after July 1, 2012, the Division of Finance shall deposit into the Transportation  
553 Investment Fund of 2005 created by Section 72-2-124:

554 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of

555 the revenues collected from the following taxes, which represents a portion of the  
556 approximately 17% of sales and use tax revenues generated annually by the sales and use tax  
557 on vehicles and vehicle-related products:

558 (A) the tax imposed by Subsection (2)(a)(i)(A);

559 (B) the tax imposed by Subsection (2)(b)(i);

560 (C) the tax imposed by Subsection (2)(c)(i); and

561 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

562 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the  
563 current fiscal year from the sales and use taxes described in Subsections (8)(e)(i)(A) through  
564 (D) that exceeds the amount collected from the sales and use taxes described in Subsections  
565 (8)(e)(i)(A) through (D) in the 2010-11 fiscal year.

566 (f) (i) Subject to Subsections (8)(f)(ii) and (iii), in any fiscal year that the portion of the  
567 sales and use taxes deposited under Subsection (8)(d) or (e) represents an amount that is a total  
568 lower percentage of the sales and use taxes described in Subsections (8)(e)(i)(A) through (D)  
569 generated in the current fiscal year than the total percentage of sales and use taxes deposited in  
570 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection  
571 (8)(d) or (e) equal to the product of:

572 (A) the total percentage of sales and use taxes deposited under Subsection (8)(d) or (e)  
573 in the previous fiscal year; and

574 (B) the total sales and use tax revenue generated by the taxes described in Subsections  
575 (8)(e)(i)(A) through (D) in the current fiscal year.

576 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under  
577 Subsection (8)(d) or (e) would exceed 17% of the revenues collected from the sales and use  
578 taxes described in Subsections (8)(e)(i)(A) through (D) in the current fiscal year, the Division  
579 of Finance shall deposit 17% of the revenues collected from the sales and use taxes described  
580 in Subsections (8)(e)(i)(A) through (D) for the current fiscal year under Subsection (8)(d) or  
581 (e).

582 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected  
583 from the sales and use taxes described in Subsections (8)(e)(i)(A) through (D) was deposited  
584 under Subsection (8)(d) or (e), the Division of Finance shall annually deposit 17% of the  
585 revenues collected from the sales and use taxes described in Subsections (8)(e)(i)(A) through

586 (D) in the current fiscal year under Subsection (8)(d) or (e).

587 (9) (a) Notwithstanding Subsection (3)(a) and for the fiscal year 2008-09 only, the  
588 Division of Finance shall deposit \$55,000,000 of the revenues generated by the taxes listed  
589 under Subsection (3)(a) into the Critical Highway Needs Fund created by Section 72-2-125.

590 (b) Notwithstanding Subsection (3)(a) and until Subsection (9)(c) applies, for a fiscal  
591 year beginning on or after July 1, 2009, the Division of Finance shall annually deposit  
592 \$90,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the  
593 Critical Highway Needs Fund created by Section 72-2-125.

594 (c) Notwithstanding Subsection (3)(a) and in addition to any amounts deposited under  
595 Subsections (7) and (8), when the general obligation bonds authorized by Section 63B-16-101  
596 have been paid off and the highway projects completed that are included in the prioritized  
597 project list under Subsection 72-2-125(4) as determined in accordance with Subsection  
598 72-2-125(6), the Division of Finance shall annually deposit \$90,000,000 of the revenues  
599 generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund  
600 of 2005 created by Section 72-2-124.

601 (10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year  
602 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund  
603 created by Section 9-4-1409 and expended as provided in Section 9-4-1409.

604 (11) (a) (i) Notwithstanding Subsection (3)(a), except as provided in Subsection  
605 (11)(a)(ii), and until Subsection (11)(b) applies, beginning on January 1, 2009, the Division of  
606 Finance shall deposit into the Critical Highway Needs Fund created by Section 72-2-125 the  
607 amount of tax revenue generated by a .025% tax rate on the transactions described in  
608 Subsection (1).

609 (ii) For purposes of Subsection (11)(a)(i), the Division of Finance may not deposit into  
610 the Critical Highway Needs Fund any tax revenue generated by amounts paid or charged for  
611 food and food ingredients, except for tax revenue generated by a bundled transaction  
612 attributable to food and food ingredients and tangible personal property other than food and  
613 food ingredients described in Subsection (2)~~(e)~~(d).

614 (b) (i) Notwithstanding Subsection (3)(a), except as provided in Subsection (11)(b)(ii),  
615 and in addition to any amounts deposited under Subsections (7), (9), and (10), when the general  
616 obligation bonds authorized by Section 63B-16-101 have been paid off and the highway

617 projects completed that are included in the prioritized project list under Subsection 72-2-125(4)  
618 as determined in accordance with Subsection 72-2-125(6), the Division of Finance shall  
619 deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the  
620 amount of tax revenue generated by a .025% tax rate on the transactions described in  
621 Subsection (1).

622 (ii) For purposes of Subsection (11)(b)(i), the Division of Finance may not deposit into  
623 the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or  
624 charged for food and food ingredients, except for tax revenue generated by a bundled  
625 transaction attributable to food and food ingredients and tangible personal property other than  
626 food and food ingredients described in Subsection (2)~~(c)~~(d).

627 (12) (a) Notwithstanding Subsection (3)(a), and except as provided in Subsection  
628 (12)(b), beginning on January 1, 2009, the Division of Finance shall deposit into the  
629 Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a  
630 .025% tax rate on the transactions described in Subsection (1) to be expended to address  
631 chokepoints in construction management.

632 (b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into  
633 the Transportation Fund any tax revenue generated by amounts paid or charged for food and  
634 food ingredients, except for tax revenue generated by a bundled transaction attributable to food  
635 and food ingredients and tangible personal property other than food and food ingredients  
636 described in Subsection (2)~~(c)~~(d).

637 (13) (a) Notwithstanding Subsection (3)(a), beginning on July 1, 2013, the Division of  
638 Finance shall annually deposit a portion of the taxes listed under Subsection (3)(a) into the  
639 Federal Fund Replacement Budget Reserve Account, created in Section 63J-1-320, in an  
640 amount equal to 10% of the growth in the amount of revenues collected in the current fiscal  
641 year from the sales and use taxes described in Subsection (3)(a) that exceeds the revenues  
642 collected from the sales and use taxes described in Subsection (3)(a) in fiscal year 2010-11.

643 (b) If the 10% transfer described in Subsection (13)(a) would cause the balance in the  
644 Federal Fund Replacement Budget Reserve Account to exceed 30% of the total federal funds  
645 received in the most recently completed fiscal year, the Division of Finance shall deposit only  
646 those funds necessary to ensure that the balance in the account equals 30% of the total federal  
647 funds received in the most recently completed fiscal year.

648 (c) Subsections (13)(a) and (b) do not apply if, in at least one of the three most recently  
649 completed fiscal years, there was an operating deficit.

650 Section 5. Section **63A-5-104** is amended to read:

651 **63A-5-104. Definitions -- Capital development and capital improvement process**  
652 **-- Approval requirements -- Limitations on new projects -- Emergencies.**

653 (1) As used in this section:

654 (a) "Capital developments" means a:

655 (i) remodeling, site, or utility project with a total cost of \$2,500,000 or more;

656 (ii) new facility with a construction cost of \$500,000 or more; or

657 (iii) purchase of real property where an appropriation is requested to fund the purchase.

658 (b) "Capital improvements" means a:

659 (i) remodeling, alteration, replacement, or repair project with a total cost of less than  
660 \$2,500,000;

661 (ii) site and utility improvement with a total cost of less than \$2,500,000; or

662 (iii) new facility with a total construction cost of less than \$500,000.

663 (c) (i) "New facility" means the construction of a new building on state property  
664 regardless of funding source.

665 (ii) "New facility" includes:

666 (A) an addition to an existing building; and

667 (B) the enclosure of space that was not previously fully enclosed.

668 (iii) "New facility" does not mean:

669 (A) the replacement of state-owned space that is demolished or that is otherwise  
670 removed from state use, if the total construction cost of the replacement space is less than  
671 \$2,500,000; or

672 (B) the construction of facilities that do not fully enclose a space.

673 (d) "Replacement cost of existing state facilities" means the replacement cost, as  
674 determined by the Division of Risk Management, of state facilities, excluding auxiliary  
675 facilities as defined by the State Building Board.

676 (e) "State funds" means public money appropriated by the Legislature.

677 (2) The State Building Board, on behalf of all state agencies, commissions,  
678 departments, and institutions shall submit its capital development recommendations and

679 priorities to the Legislature for approval and prioritization.

680 (3) (a) Except as provided in Subsections (3)(b), (d), and (e), a capital development  
681 project may not be constructed on state property without legislative approval.

682 (b) Legislative approval is not required for a capital development project that consists  
683 of the design or construction of a new facility if the State Building Board determines that:

684 (i) the requesting state agency, commission, department, or institution has provided  
685 adequate assurance that:

686 (A) state funds will not be used for the design or construction of the facility; and

687 (B) the state agency, commission, department, or institution has a plan for funding in  
688 place that will not require increased state funding to cover the cost of operations and  
689 maintenance to, or state funding for, immediate or future capital improvements to the resulting  
690 facility; and

691 (ii) the use of the state property is:

692 (A) appropriate and consistent with the master plan for the property; and

693 (B) will not create an adverse impact on the state.

694 (c) (i) The Division of Facilities Construction and Management shall maintain a record  
695 of facilities constructed under the exemption provided in Subsection (3)(b).

696 (ii) For facilities constructed under the exemption provided in Subsection (3)(b), a state  
697 agency, commission, department, or institution may not request:

698 (A) increased state funds for operations and maintenance; or

699 (B) state capital improvement funding.

700 (d) Legislative approval is not required for:

701 (i) the renovation, remodeling, or retrofitting of an existing facility with nonstate funds  
702 that has been approved by the State Building Board;

703 (ii) a facility to be built with nonstate funds and owned by nonstate entities within  
704 research park areas at the University of Utah and Utah State University;

705 (iii) a facility to be built at This is the Place State Park by This is the Place Foundation  
706 with funds of the foundation, including grant money from the state, or with donated services or  
707 materials;

708 (iv) a capital project that:

709 (A) is funded by:

- 710 (I) the Uintah Basin Revitalization Fund; or  
711 (II) the Navajo Revitalization Fund; and  
712 (B) does not provide a new facility for a state agency or higher education institution; or  
713 (v) a capital project on school and institutional trust lands that is funded by the School  
714 and Institutional Trust Lands Administration from the Land Grant Management Fund and that  
715 does not fund construction of a new facility for a state agency or higher education institution.
- 716 (e) (i) Legislative approval is not required for capital development projects to be built  
717 for the Department of Transportation as a result of an exchange of real property under Section  
718 72-5-111.
- 719 (ii) When the Department of Transportation approves those exchanges, it shall notify  
720 the president of the Senate, the speaker of the House, and the cochairs of the Capital Facilities  
721 and Administrative Services Subcommittee of the Legislature's Joint Appropriation Committee  
722 about any new facilities to be built under this exemption.
- 723 (4) (a) (i) The State Building Board, on behalf of all state agencies, commissions,  
724 departments, and institutions shall by January 15 of each year, submit a list of anticipated  
725 capital improvement requirements to the Legislature for review and approval.
- 726 (ii) The list shall identify:
- 727 (A) a single project that costs more than \$1,000,000;  
728 (B) multiple projects within a single building or facility that collectively cost more than  
729 \$1,000,000;
- 730 (C) a single project that will be constructed over multiple years with a yearly cost of  
731 \$1,000,000 or more and an aggregate cost of more than \$2,500,000;
- 732 (D) multiple projects within a single building or facility with a yearly cost of  
733 \$1,000,000 or more and an aggregate cost of more than \$2,500,000;
- 734 (E) a single project previously reported to the Legislature as a capital improvement  
735 project under \$1,000,000 that, because of an increase in costs or scope of work, will now cost  
736 more than \$1,000,000; and
- 737 (F) multiple projects within a single building or facility previously reported to the  
738 Legislature as a capital improvement project under \$1,000,000 that, because of an increase in  
739 costs or scope of work, will now cost more than \$1,000,000.
- 740 (b) Unless otherwise directed by the Legislature, the State Building Board shall



741 prioritize capital improvements from the list submitted to the Legislature up to the level of  
742 appropriation made by the Legislature.

743 (c) In prioritizing capital improvements, the State Building Board shall consider the  
744 results of facility evaluations completed by an architect/engineer as stipulated by the building  
745 board's facilities maintenance standards.

746 (d) The State Building Board may require an entity that benefits from a capital  
747 improvement project to repay the capital improvement funds from savings that result from the  
748 project.

749 (e) The State Building Board may provide capital improvement funding to a single  
750 project, or to multiple projects within a single building or facility, even if the total cost of the  
751 project or multiple projects is \$2,500,000 or more, if:

752 (i) the capital improvement project or multiple projects require more than one year to  
753 complete; and

754 (ii) the Legislature has affirmatively authorized the capital improvement project or  
755 multiple projects to be funded in phases.

756 (5) The Legislature may authorize:

757 (a) the total square feet to be occupied by each state agency; and

758 (b) the total square feet and total cost of lease space for each agency.

759 (6) (a) Except as provided in Subsection (6)(b) or (c), the Legislature may not fund the  
760 design or construction of any new capital development projects, except to complete the funding  
761 of projects for which partial funding has been previously provided, until the Legislature has  
762 appropriated 1.1% of the replacement cost of existing state facilities to capital improvements.

763 (b) (i) As used in this Subsection (6)(b):

764 (A) "Education Fund budget deficit" is as defined in Section [~~63J-1-312~~] 63J-1-317;

765 and

766 (B) "General Fund budget deficit" is as defined in Section [~~63J-1-312~~] 63J-1-317.

767 (ii) If the Legislature determines that an Education Fund budget deficit or a General  
768 Fund budget deficit exists, the Legislature may, in eliminating the deficit, reduce the amount  
769 appropriated to capital improvements to 0.9% of the replacement cost of state buildings.

770 (c) The requirements under Subsections (6)(a) and (b) do not apply to the 2008-09,  
771 2009-10, 2010-11, and 2011-12 fiscal years.

772 (7) (a) If, after approval of capital development and capital improvement priorities by  
773 the Legislature under this section, emergencies arise that create unforeseen critical capital  
774 improvement projects, the State Building Board may, notwithstanding the requirements of Title  
775 63J, Chapter 1, Budgetary Procedures Act, reallocate capital improvement funds to address  
776 those projects.

777 (b) The State Building Board shall report any changes it makes in capital improvement  
778 allocations approved by the Legislature to:

779 (i) the Office of Legislative Fiscal Analyst within 30 days of the reallocation; and

780 (ii) the Legislature at its next annual general session.

781 (8) (a) The State Building Board may adopt a rule allocating to institutions and  
782 agencies their proportionate share of capital improvement funding.

783 (b) The State Building Board shall ensure that the rule:

784 (i) reserves funds for the Division of Facilities Construction and Management for  
785 emergency projects; and

786 (ii) allows the delegation of projects to some institutions and agencies with the  
787 requirement that a report of expenditures will be filed annually with the Division of Facilities  
788 Construction and Management and appropriate governing bodies.

789 (9) It is the intent of the Legislature that in funding capital improvement requirements  
790 under this section the General Fund be considered as a funding source for at least half of those  
791 costs.

792 Section 6. Section **63J-1-201** is amended to read:

793 **63J-1-201. Governor's proposed budget to Legislature -- Contents -- Preparation**  
794 **-- Appropriations based on current tax laws and not to exceed estimated revenues.**

795 (1) The governor shall deliver, not later than 30 days before the date the Legislature  
796 convenes in the annual general session, a confidential draft copy of the governor's proposed  
797 budget recommendations to the Office of the Legislative Fiscal Analyst according to the  
798 requirements of this section.

799 (2) (a) When submitting a proposed budget, the governor shall, within the first three  
800 days of the annual general session of the Legislature, submit to the presiding officer of each  
801 house of the Legislature:

802 (i) a proposed budget for the ensuing fiscal year;

- 803 (ii) a schedule for all of the proposed changes to appropriations in the proposed budget,  
804 with each change clearly itemized and classified; and
- 805 (iii) as applicable, a document showing proposed changes in estimated revenues that  
806 are based on changes in state tax laws or rates.
- 807 (b) The proposed budget shall include:
- 808 (i) a projection of the total estimated revenues and appropriations for the next fiscal  
809 year;
- 810 (ii) the source of changes to all direct, indirect, and in-kind matching funds for all  
811 federal grants or assistance programs included in the budget;
- 812 (iii) a plan of proposed changes to appropriations and estimated revenues for the next  
813 fiscal year that is based upon the current fiscal year state tax laws and rates;
- 814 (iv) an itemized estimate of the proposed changes to appropriations for:
- 815 (A) the Legislative Department as certified to the governor by the president of the  
816 Senate and the speaker of the House;
- 817 (B) the Executive Department;
- 818 (C) the Judicial Department as certified to the governor by the state court  
819 administrator;
- 820 (D) changes to salaries payable by the state under the Utah Constitution or under law  
821 for lease agreements planned for the next fiscal year; and
- 822 (E) all other changes to ongoing or one-time appropriations, including dedicated  
823 credits, restricted funds, nonlapsing balances, grants, and federal funds;
- 824 (v) for each line item, the average annual dollar amount of staff funding associated  
825 with all positions that were vacant during the last fiscal year;
- 826 (vi) deficits or anticipated deficits;
- 827 (vii) the recommendations for each state agency for new full-time employees for the  
828 next fiscal year, which shall also be provided to the State Building Board as required by  
829 Subsection 63A-5-103(2);
- 830 (viii) any explanation that the governor may desire to make as to the important features  
831 of the budget and any suggestion as to methods for the reduction of expenditures or increase of  
832 the state's revenue; and
- 833 (ix) information detailing certain fee increases as required by Section 63J-1-504.

834 (3) For the purpose of preparing and reporting the proposed budget:

835 (a) The governor shall require the proper state officials, including all public and higher  
836 education officials, all heads of executive and administrative departments and state institutions,  
837 bureaus, boards, commissions, and agencies expending or supervising the expenditure of the  
838 state money, and all institutions applying for state money and appropriations, to provide  
839 itemized estimates of changes in revenues and appropriations.

840 (b) The governor may require the persons and entities subject to Subsection (3)(a) to  
841 provide other information under these guidelines and at times as the governor may direct,  
842 which may include a requirement for program productivity and performance measures, where  
843 appropriate, with emphasis on outcome indicators.

844 (c) The governor may require representatives of public and higher education, state  
845 departments and institutions, and other institutions or individuals applying for state  
846 appropriations to attend budget meetings.

847 (4) In submitting the budgets for the Departments of Health and Human Services and  
848 the Office of the Attorney General, the governor shall consider a separate recommendation in  
849 the governor's budget for changes in funds to be contracted to:

850 (a) local mental health authorities under Section 62A-15-110;

851 (b) local substance abuse authorities under Section 62A-15-110;

852 (c) area agencies under Section 62A-3-104.2;

853 (d) programs administered directly by and for operation of the Divisions of Substance  
854 Abuse and Mental Health and Aging and Adult Services;

855 (e) local health departments under Title 26A, Chapter 1, Local Health Departments;  
856 and

857 (f) counties for the operation of Children's Justice Centers under Section 67-5b-102.

858 (5) (a) In making budget recommendations, the governor shall consider an amount  
859 sufficient to grant the following entities the same percentage increase for wages and benefits  
860 that the governor includes in the governor's budget for persons employed by the state:

861 (i) local health departments, local mental health authorities, local substance abuse  
862 authorities, and area agencies;

863 (ii) local conservation districts and Utah Association of Conservation District  
864 employees, as related to the budget for the Department of Agriculture; and

865 (iii) employees of corporations that provide direct services under contract with:

866 (A) the Utah State Office of Rehabilitation and the Division of Services for People  
867 with Disabilities;

868 (B) the Division of Child and Family Services; and

869 (C) the Division of Juvenile Justice Services within the Department of Human  
870 Services.

871 (b) If the governor does not include in the governor's budget an amount sufficient to  
872 grant an increase for any entity described in Subsection (5)(a), the governor shall include a  
873 message to the Legislature regarding the governor's reason for not including that amount.

874 (6) (a) The Families, Agencies, and Communities Together Council may propose a  
875 budget recommendation to the governor for collaborative service delivery systems operated  
876 under Section 63M-9-402, as provided under Subsection 63M-9-201(4)(e).

877 (b) The Legislature may, through a specific program schedule, designate funds  
878 appropriated for collaborative service delivery systems operated under Section 63M-9-402.

879 (7) The governor shall include in the governor's budget the state's portion of the budget  
880 for the Utah Communications Agency Network established in Title 63C, Chapter 7, Utah  
881 Communications Agency Network Act.

882 (8) (a) The governor shall include a separate recommendation in the governor's budget  
883 for funds to maintain the operation and administration of the Utah Comprehensive Health  
884 Insurance Pool. In making the recommendation, the governor may consider:

885 (i) actuarial analysis of growth or decline in enrollment projected over a period of at  
886 least three years;

887 (ii) actuarial analysis of the medical and pharmacy claims costs projected over a period  
888 of at least three years;

889 (iii) the annual Medical Care Consumer Price Index;

890 (iv) the annual base budget for the pool established by the Commerce and Revenue  
891 Appropriations Subcommittee for each fiscal year;

892 (v) the growth or decline in insurance premium taxes and fees collected by the State  
893 Tax Commission and the Insurance Department; and

894 (vi) the availability of surplus General Fund revenue under Section [~~63J-1-312~~]  
895 63J-1-319 and Subsection 59-14-204(5)(b).

896 (b) In considering the factors in Subsections (8)(a)(i), (ii), and (iii), the governor may  
897 consider the actuarial data and projections prepared for the board of the Utah Comprehensive  
898 Health Insurance Pool as it develops the governor's financial statements and projections for  
899 each fiscal year.

900 (9) (a) In submitting the budget for the Department of Public Safety, the governor shall  
901 include a separate recommendation in the governor's budget for maintaining a sufficient  
902 number of alcohol-related law enforcement officers to maintain the enforcement ratio equal to  
903 or below the number specified in Subsection 32B-1-201(2).

904 (b) If the governor does not include in the governor's budget an amount sufficient to  
905 maintain the number of alcohol-related law enforcement officers described in Subsection  
906 (9)(a), the governor shall include a message to the Legislature regarding the governor's reason  
907 for not including that amount.

908 (10) (a) The governor may revise all estimates, except those relating to the Legislative  
909 Department, the Judicial Department, and those providing for the payment of principal and  
910 interest to the state debt and for the salaries and expenditures specified by the Utah  
911 Constitution or under the laws of the state.

912 (b) The estimate for the Judicial Department, as certified by the state court  
913 administrator, shall also be included in the budget without revision, but the governor may make  
914 separate recommendations on the estimate.

915 (11) The total appropriations requested for expenditures authorized by the budget may  
916 not exceed the estimated revenues from taxes, fees, and all other sources for the next ensuing  
917 fiscal year.

918 (12) If any item of the budget as enacted is held invalid upon any ground, the invalidity  
919 does not affect the budget itself or any other item in it.

920 Section 7. Section **63J-1-201.7** is amended to read:

921 **63J-1-201.7. Legislative budget considerations -- Wage increases for certain**  
922 **entities -- Comprehensive health insurance pool.**

923 (1) In adopting a budget for each fiscal year, the Legislature shall consider an amount  
924 sufficient to grant local health departments, local mental health authorities, local substance  
925 abuse authorities, area agencies on aging, conservation districts, and Utah Association of  
926 Conservation District employees the same percentage increase for wages and benefits that is

927 included in the budget for persons employed by the state.

928 (2) (a) In adopting a budget each year for the Utah Comprehensive Health Insurance  
929 Pool, the Legislature shall determine an amount that is sufficient to fund the pool for each  
930 fiscal year.

931 (b) When making a determination under this Subsection (2), the Legislature shall  
932 consider factors it determines are appropriate, which may include:

933 (i) actuarial analysis of growth or decline in enrollment projected over a period of at  
934 least three years;

935 (ii) actuarial analysis of the medical and pharmacy claims costs projected over a period  
936 of at least three years;

937 (iii) the annual Medical Care Consumer Price Index;

938 (iv) the annual base budget for the pool established by the Commerce and Revenue  
939 Appropriations Subcommittee for each fiscal year;

940 (v) the growth or decline in insurance premium taxes and fees collected by the tax  
941 commission and the insurance department from the previous fiscal year; and

942 (vi) the availability of surplus General Fund revenue under Section [~~63J-1-312~~]  
943 63J-1-319 and Subsection 59-14-204(5)(b).

944 (c) In considering the factors in Subsections (2)(b)(i), (ii), and (iii), the Legislature may  
945 consider the actuarial data and projections prepared for the board of the Utah Comprehensive  
946 Health Insurance Pool as it develops its financial statements and projections for each fiscal  
947 year.

948 (d) The funds appropriated by the Legislature to fund the Utah Comprehensive Health  
949 Insurance Pool as determined under this Subsection (2):

950 (i) shall be deposited into the fund established by Section 31A-29-120; and

951 (ii) are restricted and are to be used to maintain the operation, administration, and  
952 management of the Utah Comprehensive Health Insurance Pool created by Section  
953 31A-29-104.

954 Section 8. Section **63J-1-217** is amended to read:

955 **63J-1-217. Overexpenditure of budget by agency -- Prorating budget income**  
956 **shortfall.**

957 (1) Expenditures of departments, agencies, and institutions of state government shall be

958 kept within revenues available for such expenditures.

959 (2) (a) Line items of appropriation shall not be overexpended.

960 (b) Notwithstanding Subsection (2)(a), if an agency's line item is overexpended at the  
961 close of a fiscal year:

962 (i) the director of the Division of Finance may make payments from the line item to  
963 vendors for goods or services that were received on or before June 30; and

964 (ii) the director of the Division of Finance shall immediately reduce the agency's line  
965 item budget in the current year by the amount of the overexpenditure.

966 (c) Each agency with an overexpended line item shall:

967 (i) prepare a written report explaining the reasons for the overexpenditure; and

968 (ii) present the report to:

969 (A) the Board of Examiners as required by Section 63G-9-301; and

970 (B) the Office of the Legislative Fiscal Analyst.

971 (3) (a) As used in this Subsection (3):

972 (i) "Education Fund budget deficit" [~~has the same meaning as~~] is as defined in Section  
973 [~~63J-1-312~~] 63J-1-317; and

974 (ii) "General Fund budget deficit" [~~has the same meaning as~~] is as defined in Section  
975 [~~63J-1-312~~] 63J-1-317.

976 (b) If an Education Fund budget deficit or a General Fund budget deficit exists and the  
977 adopted estimated revenues were prepared in consensus with the Governor's Office of Planning  
978 and Budget, the governor shall:

979 (i) direct state agencies to reduce commitments and expenditures by an amount  
980 proportionate to the amount of the deficiency; and

981 (ii) direct the Division of Finance to reduce allotments to institutions of higher  
982 education by an amount proportionate to the amount of the deficiency.

983 (c) The governor's directions under Subsection (3)(b) are rescinded when the  
984 Legislature rectifies the Education Fund budget deficit and the General Fund budget deficit.

985 (4) (a) A department may not receive an advance of funds that cannot be covered by  
986 anticipated revenue within the work program of the fiscal year, unless the governor allocates  
987 money from the governor's emergency appropriations.

988 (b) All allocations made from the governor's emergency appropriations shall be



989 reported to the budget subcommittee of the Legislative Management Committee by notifying  
990 the Office of the Legislative Fiscal Analyst at least 15 days before the effective date of the  
991 allocation.

992 (c) Emergency appropriations shall be allocated only to support activities having  
993 existing legislative approval and appropriation, and may not be allocated to any activity or  
994 function rejected directly or indirectly by the Legislature.

995 Section 9. Section **63J-1-316** is enacted to read:

996 **Part 3. Budget Reserve Accounts**

997 **63J-1-316. Title.**

998 This part is known as "Budget Reserve Accounts."

999 Section 10. Section **63J-1-317** is enacted to read:

1000 **63J-1-317. Definitions.**

1001 As used in this part:

1002 (1) "Education Fund budget deficit" means a situation where appropriations made by  
1003 the Legislature from the Education Fund for a fiscal year exceed the estimated revenues  
1004 adopted by the Executive Appropriations Committee of the Legislature for the Education Fund  
1005 in that fiscal year.

1006 (2) "General Fund appropriations" means the sum of the spending authority for a fiscal  
1007 year that is:

1008 (a) granted by the Legislature in all appropriation acts and bills; and

1009 (b) identified as coming from the General Fund.

1010 (3) "General Fund budget deficit" means a situation where General Fund  
1011 appropriations made by the Legislature for a fiscal year exceed the estimated revenues adopted  
1012 by the Executive Appropriations Committee of the Legislature for the General Fund in that  
1013 fiscal year.

1014 (4) "General Fund revenue surplus" means a situation where actual General Fund  
1015 revenues collected in a completed fiscal year exceed the estimated revenues for the General  
1016 Fund for that fiscal year that were adopted by the Executive Appropriations Committee of the  
1017 Legislature.

1018 Section 11. Section **63J-1-318**, which is renumbered from Section 63J-1-315 is  
1019 renumbered and amended to read:

1020           ~~[63J-1-315]~~.           **63J-1-318. Medicaid Growth Reduction and Budget**  
1021 **Stabilization Restricted Account --Transfers of Medicaid growth savings -- Base budget**  
1022 **adjustments.**

1023           (1) As used in this section:

1024           (a) "Department" means the Department of Health created in Section 26-1-4.

1025           (b) "Division" means the Division of Health Care Financing created within the  
1026 department under Section 26-18-2.1.

1027           ~~[(c) "General Fund revenue surplus" means a situation where actual General Fund~~  
1028 ~~revenues collected in a completed fiscal year exceed the estimated revenues for the General~~  
1029 ~~Fund for that fiscal year that were adopted by the Executive Appropriations Committee of the~~  
1030 ~~Legislature.]~~

1031           ~~[(d)]~~ (c) "Medicaid growth savings" means the Medicaid growth target minus Medicaid  
1032 program expenditures, if Medicaid program expenditures are less than the Medicaid growth  
1033 target.

1034           ~~[(e)]~~ (d) "Medicaid growth target" means Medicaid program expenditures for the  
1035 previous year multiplied by 1.08.

1036           ~~[(f)]~~ (e) "Medicaid program" is as defined in Section 26-18-2.

1037           ~~[(g)]~~ (f) "Medicaid program expenditures" means total state revenue expended for the  
1038 Medicaid program from the General Fund, including restricted accounts within the General  
1039 Fund, during a fiscal year.

1040           ~~[(h)]~~ (g) "Medicaid program expenditures for the previous year" means total state  
1041 revenue expended for the Medicaid program from the General Fund, including restricted  
1042 accounts within the General Fund, during the fiscal year immediately preceding a fiscal year for  
1043 which Medicaid program expenditures are calculated.

1044           ~~[(i)]~~ (h) "Operating deficit" means that, at the end of the fiscal year, the unassigned  
1045 fund balance in the General Fund is less than zero.

1046           ~~[(j)]~~ (i) "State revenue" means revenue other than federal revenue.

1047           ~~[(k)]~~ (j) "State revenue expended for the Medicaid program" includes money  
1048 transferred or appropriated to the Medicaid Growth Reduction and Budget Stabilization  
1049 Account only to the extent the money is appropriated for the Medicaid program by the  
1050 Legislature.

1051 (2) There is created within the General Fund a restricted account to be known as the  
1052 Medicaid Growth Reduction and Budget Stabilization Account.

1053 (3) (a) (i) Except as provided in Subsection (6), if, at the end of a fiscal year, there is a  
1054 General Fund revenue surplus, the Division of Finance shall transfer an amount equal to  
1055 Medicaid growth savings from the General Fund to the Medicaid Growth Reduction and  
1056 Budget Stabilization Account.

1057 (ii) If the amount transferred is reduced to prevent an operating deficit, as provided in  
1058 Subsection (6), the Legislature shall include, to the extent revenue is available, an amount  
1059 equal to the reduction as an appropriation from the General Fund to the account in the base  
1060 budget for the second fiscal year following the fiscal year for which the reduction was made.

1061 (b) If, at the end of a fiscal year, there is not a General Fund revenue surplus, the  
1062 Legislature shall include, to the extent revenue is available, an amount equal to Medicaid  
1063 growth savings as an appropriation from the General Fund to the account in the base budget for  
1064 the second fiscal year following the fiscal year for which the reduction was made.

1065 (c) Subsections (3)(a) and (3)(b) apply only to the fiscal year in which the department  
1066 implements the proposal developed under Section 26-18-405 to reduce the long-term growth in  
1067 state expenditures for the Medicaid program, and to each fiscal year after that year.

1068 (4) The Division of Finance shall calculate the amount to be transferred under  
1069 Subsection (3):

1070 (a) before transferring revenue from the General Fund revenue surplus to:

1071 (i) the General Fund Budget Reserve Account under Section [~~63J-1-312 and~~]  
1072 63J-1-319;

1073 (ii) the Federal Fund Replacement Budget Reserve Account under Section 63J-1-320;  
1074 and

1075 [~~(ii)~~] (iii) the State Disaster Recovery Restricted Account under Section [63J-1-314]  
1076 63J-1-321;

1077 (b) before earmarking revenue from the General Fund revenue surplus to the Industrial  
1078 Assistance Account under Section 63M-1-905; and

1079 (c) before making any other year-end contingency appropriations, year-end set-asides,  
1080 or other year-end transfers required by law.

1081 (5) (a) If, at the close of any fiscal year, there appears to be insufficient money to pay

1082 additional debt service for any bonded debt authorized by the Legislature, the Division of  
1083 Finance may hold back from any General Fund revenue surplus money sufficient to pay the  
1084 additional debt service requirements resulting from issuance of bonded debt that was  
1085 authorized by the Legislature.

1086 (b) The Division of Finance may not spend the hold back amount for debt service  
1087 under Subsection (5)(a) unless and until it is appropriated by the Legislature.

1088 (c) If, after calculating the amount for transfer under Subsection (3), the remaining  
1089 General Fund revenue surplus is insufficient to cover the hold back for debt service required by  
1090 Subsection (5)(a), the Division of Finance shall reduce the transfer to the Medicaid Growth  
1091 Reduction and Budget Stabilization Account by the amount necessary to cover the debt service  
1092 hold back.

1093 (d) Notwithstanding Subsections (3) and (4), the Division of Finance shall hold back  
1094 the General Fund balance for debt service authorized by this Subsection (5) before making any  
1095 transfers to the Medicaid Growth Reduction and Budget Stabilization Account or any other  
1096 designation or allocation of General Fund revenue surplus.

1097 (6) Notwithstanding Subsections (3) and (4), if, at the end of a fiscal year, the Division  
1098 of Finance determines that an operating deficit exists and that holding back earmarks to the  
1099 Industrial Assistance Account under Section 63M-1-905, transfers to the State Disaster  
1100 Recovery Restricted Account under Section [~~63J-1-314~~], 63J-1-321, transfers to the Federal  
1101 Fund Replacement Budget Reserve Account under Section 63J-1-320, transfers to the General  
1102 Fund Budget Reserve Account under Section [~~63J-1-312~~] 63J-1-319, or earmarks and transfers  
1103 to more than one of those accounts, in that order, does not eliminate the operating deficit, the  
1104 Division of Finance may reduce the transfer to the Medicaid Growth Reduction and Budget  
1105 Stabilization Account by the amount necessary to eliminate the operating deficit.

1106 (7) The Legislature may appropriate money from the Medicaid Growth Reduction and  
1107 Budget Stabilization Account only:

1108 (a) if Medicaid program expenditures for the fiscal year for which the appropriation is  
1109 made are estimated to be 108% or more of Medicaid program expenditures for the previous  
1110 year; and

1111 (b) for the Medicaid program.

1112 (8) The Division of Finance shall deposit interest or other earnings derived from

1113 investment of Medicaid Growth Reduction and Budget Stabilization Account money into the  
1114 General Fund.

1115 Section 12. Section **63J-1-319**, which is renumbered from Section 63J-1-312 is  
1116 renumbered and amended to read:

1117 ~~[63J-1-312].~~ **63J-1-319. Establishing a General Fund Budget Reserve**  
1118 **Account -- Providing for deposits and expenditures from the account -- Providing for**  
1119 **interest generated by the account.**

1120 ~~[(1) As used in this section:]~~

1121 ~~[(a) "Education Fund budget deficit" means a situation where appropriations made by~~  
1122 ~~the Legislature from the Education Fund for a fiscal year exceed the estimated revenues~~  
1123 ~~adopted by the Executive Appropriations Committee of the Legislature for the Education Fund~~  
1124 ~~in that fiscal year.]~~

1125 ~~[(b) "General Fund appropriations" means the sum of the spending authority for a fiscal~~  
1126 ~~year that is:]~~

1127 ~~[(i) granted by the Legislature in all appropriation acts and bills; and]~~

1128 ~~[(ii) identified as coming from the General Fund.]~~

1129 ~~[(c) "General Fund budget deficit" means a situation where General Fund~~  
1130 ~~appropriations made by the Legislature for a fiscal year exceed the estimated revenues adopted~~  
1131 ~~by the Executive Appropriations Committee of the Legislature for the General Fund in that~~  
1132 ~~fiscal year.]~~

1133 ~~[(d) "General Fund revenue surplus" means a situation where actual General Fund~~  
1134 ~~revenues collected in a completed fiscal year exceed the estimated revenues for the General~~  
1135 ~~Fund for that fiscal year that were adopted by the Executive Appropriations Committee of the~~  
1136 ~~Legislature.]~~

1137 ~~[(e) "Operating]~~

1138 (1) As used in this section, "operating deficit" means that, at the end of the fiscal year,  
1139 the unassigned fund balance in the General Fund is less than zero.

1140 (2) There is created within the General Fund a restricted account to be known as the  
1141 General Fund Budget Reserve Account, which is designated to receive the legislative  
1142 appropriations and the surplus revenue required to be deposited into the account by this section.

1143 (3) (a) (i) Except as provided in Subsection (3)(a)(ii), at the end of any fiscal year in

1144 which the Division of Finance, in consultation with the Legislative Fiscal Analyst and in  
1145 conjunction with the completion of the annual audit by the state auditor, determines that there  
1146 is a General Fund revenue surplus, the Division of Finance shall transfer 25% of the General  
1147 Fund revenue surplus to the General Fund Budget Reserve Account.

1148 (ii) If the transfer of 25% of the General Fund revenue surplus to the General Fund  
1149 Budget Reserve Account would cause the balance in the account to exceed 6% of General Fund  
1150 appropriations for the fiscal year in which the revenue surplus occurred, the Division of  
1151 Finance shall transfer only those funds necessary to ensure that the balance in the account  
1152 equals 6% of General Fund appropriations for the fiscal year in which the General Fund  
1153 revenue surplus occurred.

1154 (iii) The Division of Finance shall calculate the amount to be transferred under this  
1155 Subsection (3)(a):

1156 (A) after making the transfer of General Fund revenue surplus to the Medicaid Budget  
1157 Stabilization Restricted Account, as provided in Section [~~63J-1-315~~] 63J-1-318;

1158 (B) before transferring from the General Fund revenue surplus any other year-end  
1159 contingency appropriations, year-end set-asides, or other year-end transfers required by law;  
1160 and

1161 (C) excluding any direct legislative appropriation made to the General Fund Budget  
1162 Reserve Account for the fiscal year.

1163 (b) (i) Except as provided in Subsection (3)(b)(ii), in addition to Subsection (3)(a)(i), if  
1164 a General Fund revenue surplus exists and if, within the last 10 years, the Legislature has  
1165 appropriated any money from the General Fund Budget Reserve Account that has not been  
1166 replaced by appropriation or as provided in this Subsection (3)(b), the Division of Finance shall  
1167 transfer up to 25% more of the General Fund revenue surplus to the General Fund Budget  
1168 Reserve Account to replace the amounts appropriated, until direct legislative appropriations, if  
1169 any, and transfers from the General Fund revenue surplus under this Subsection (3)(b) have  
1170 replaced the appropriations from the account.

1171 (ii) If the transfer under Subsection (3)(b)(i) would cause the balance in the account to  
1172 exceed 6% of General Fund appropriations for the fiscal year in which the revenue surplus  
1173 occurred, the Division of Finance shall transfer only those funds necessary to ensure that the  
1174 balance in the account equals 6% of General Fund appropriations for the fiscal year in which

1175 the revenue surplus occurred.

1176 (iii) The Division of Finance shall calculate the amount to be transferred under this  
1177 Subsection (3)(b):

1178 (A) after making the transfer of General Fund revenue surplus to the Medicaid Budget  
1179 Stabilization Restricted Account, as provided in Section [~~63J-1-315~~] 63J-1-318;

1180 (B) before transferring from the General Fund revenue surplus any other year-end  
1181 contingency appropriations, year-end set-asides, or other year-end transfers required by law;  
1182 and

1183 (C) excluding any direct legislative appropriation made to the General Fund Budget  
1184 Reserve Account for the fiscal year.

1185 (c) For appropriations made by the Legislature to the General Fund Budget Reserve  
1186 Account, the Division of Finance shall treat those appropriations, unless otherwise specified in  
1187 the appropriation, as replacement funds for appropriations made from the account if funds were  
1188 appropriated from the General Fund Budget Reserve Account within the past 10 years and have  
1189 not yet been replaced.

1190 (4) The Legislature may appropriate money from the General Fund Budget Reserve  
1191 Account only to:

1192 (a) resolve a General Fund budget deficit, for the fiscal year in which the General Fund  
1193 budget deficit occurs;

1194 (b) pay some or all of state settlement agreements approved under Title 63G, Chapter  
1195 10, State Settlement Agreements Act;

1196 (c) pay retroactive tax refunds; or

1197 (d) resolve an Education Fund budget deficit.

1198 (5) Interest generated from investments of money in the General Fund Budget Reserve  
1199 Account shall be deposited into the General Fund.

1200 Section 13. Section **63J-1-320** is enacted to read:

1201 **63J-1-320. Establishing a Federal Fund Replacement Budget Reserve Account --**  
1202 **Providing for deposits and expenditures from the account -- Providing for interest**  
1203 **generated by the account.**

1204 (1) As used in this section:

1205 (a) (i) "Federal funds" means cash or other money received from the United States

1206 government, or from other individuals or entities for or on behalf of the United States  
1207 government, and deposited with the state treasurer or any agency of the state.

1208 (ii) "Federal funds" includes federal assistance and federal assistance programs,  
1209 however described.

1210 (iii) "Federal funds" does not include money received from the United States  
1211 government to reimburse the state for money expended by the state.

1212 (b) "Operating deficit" means that, at the end of the fiscal year, the unassigned fund  
1213 balance in the General Fund is less than zero.

1214 (2) There is created within the General Fund a restricted account to be known as the  
1215 Federal Fund Replacement Budget Reserve Account, which is designated to receive the  
1216 legislative appropriations and the surplus revenue required to be deposited into the account by  
1217 this section.

1218 (3) (a) (i) Except as provided in Subsection (3)(a)(ii), at the end of any fiscal year in  
1219 which the Division of Finance, in consultation with the Legislative Fiscal Analyst and in  
1220 conjunction with the completion of the annual audit by the state auditor, determines that there  
1221 is a General Fund revenue surplus, the Division of Finance shall transfer 25% of the General  
1222 Fund revenue surplus to the Federal Fund Replacement Budget Reserve Account.

1223 (ii) If the transfer of 25% of the General Fund revenue surplus to the Federal Fund  
1224 Replacement Budget Reserve Account would cause the balance in the account to exceed 10%  
1225 of total federal funds received by the state for the fiscal year in which the revenue surplus  
1226 occurred, the Division of Finance shall transfer only those funds necessary to ensure that the  
1227 balance in the account equals 10% of total federal funds received by the state for the fiscal year  
1228 in which the General Fund revenue surplus occurred.

1229 (iii) The Division of Finance shall calculate the amount to be transferred under this  
1230 Subsection (3)(a):

1231 (A) after making the transfer of General Fund revenue surplus to the Medicaid Budget  
1232 Stabilization Restricted Account, as provided in Section 63J-1-318;

1233 (B) after making the transfer of General Fund revenue surplus to the General Fund  
1234 Budget Reserve Account, as provided in Section 63J-1-319;

1235 (C) before transferring revenue from the General Fund revenue surplus to the State  
1236 Disaster Recovery Restricted Account under Section 63J-1-321;



1237 (D) before earmarking revenue from the General Fund revenue surplus to the Industrial  
1238 Assistance Account under Section 63M-1-905;

1239 (E) before transferring from the General Fund revenue surplus any other year-end  
1240 contingency appropriations, year-end set-asides, or other year-end transfers required by law;  
1241 and

1242 (F) excluding any direct legislative appropriation made to the Federal Fund  
1243 Replacement Budget Reserve Account for the fiscal year.

1244 (b) (i) Except as provided in Subsection (3)(b)(ii), in addition to Subsection (3)(a)(i), if  
1245 a General Fund revenue surplus exists and if, within the last 10 years, the Legislature has  
1246 appropriated any money from the Federal Fund Replacement Budget Reserve Account that has  
1247 not been replaced by appropriation or as provided in this Subsection (3)(b), the Division of  
1248 Finance shall transfer up to 25% more of the General Fund revenue surplus to the Federal Fund  
1249 Replacement Budget Reserve Account to replace the amounts appropriated, until direct  
1250 legislative appropriations, if any, and transfers from the General Fund revenue surplus under  
1251 this Subsection (3)(b) have replaced the appropriations from the account.

1252 (ii) If the transfer under Subsection (3)(b)(i) would cause the balance in the account to  
1253 exceed 10% of total federal funds received by the state for the fiscal year in which the revenue  
1254 surplus occurred, the Division of Finance shall transfer only those funds necessary to ensure  
1255 that the balance in the account equals 10% of total federal funds received by the state for the  
1256 fiscal year in which the revenue surplus occurred.

1257 (iii) The Division of Finance shall calculate the amount to be transferred under this  
1258 Subsection (3)(b):

1259 (A) after making the transfer of General Fund revenue surplus to the Medicaid Budget  
1260 Stabilization Restricted Account, as provided in Section 63J-1-318;

1261 (B) after making the transfer of General Fund revenue surplus to the General Fund  
1262 Budget Reserve Account, as provided in Section 63J-1-319;

1263 (C) before transferring revenue from the General Fund revenue surplus to the State  
1264 Disaster Recovery Restricted Account under Section 63J-1-321;

1265 (D) before earmarking revenue from the General Fund revenue surplus to the Industrial  
1266 Assistance Account under Section 63M-1-905;

1267 (E) before transferring from the General Fund revenue surplus any other year-end

1268 contingency appropriations, year-end set-asides, or other year-end transfers required by law;  
1269 and

1270 (F) excluding any direct legislative appropriation made to the Federal Fund  
1271 Replacement Budget Reserve Account for the fiscal year.

1272 (c) For appropriations made by the Legislature to the Federal Fund Replacement  
1273 Budget Reserve Account, the Division of Finance shall treat those appropriations, unless  
1274 otherwise specified in the appropriation, as replacement funds for appropriations made from  
1275 the account if funds were appropriated from the Federal Fund Replacement Budget Reserve  
1276 Account within the past 10 years and have not yet been replaced.

1277 (4) The Legislature may appropriate money from the Federal Fund Replacement  
1278 Budget Reserve Account only to replace federal funds that the state has been receiving but is  
1279 no longer receiving.

1280 (5) Interest generated from investments of money in the Federal Fund Replacement  
1281 Budget Reserve Account shall be deposited into the General Fund.

1282 (6) (a) The Office of Legislative Fiscal shall notify the Executive Appropriations  
1283 Committee if :

1284 (i) the federal government takes action that appears to reduce available federal funds to  
1285 Utah state agencies by 5% or more;

1286 (ii) federal interest payments on national debt exceed 8% of gross domestic product; or  
1287 (iii) gross national debt exceeds 100% of national gross domestic product.

1288 (b) If the Executive Appropriations Committee receives notice under Subsection (6)(a),  
1289 the committee shall determine whether to sponsor legislation to make adjustments to the  
1290 provisions of Section 63J-1-320 in order to respond to an event described in Subsection (6)(a).

1291 Section 14. Section **63J-1-321**, which is renumbered from Section 63J-1-314 is  
1292 renumbered and amended to read:

1293 **[63J-1-314].** **63J-1-321. Deposits related to the Disaster Recovery**  
1294 **Funding Act.**

1295 (1) As used in this section, "operating deficit" means that, at the end of the fiscal year,  
1296 the unassigned fund balance in the General Fund is less than zero.

1297 (2) Except as provided under Subsection (3), at the end of each fiscal year, the Division  
1298 of Finance shall, after the transfer of General Fund revenue surplus has been made to the

1299 Medicaid Budget Stabilization Restricted Account, as provided in Section [~~63J-1-315, and~~  
 1300 63J-1-318, the General Fund Budget Reserve Account, as provided in Section [~~63J-1-312,~~  
 1301 63J-1-319, and the Federal Fund Replacement Budget Reserve Account, as provided in Section  
 1302 63J-1-320, transfer an amount into the State Disaster Recovery Restricted Account, created in  
 1303 Section 53-2-403, from the General Fund revenue surplus as defined in Section [~~63J-1-312]~~  
 1304 63J-1-317, calculated by:

1305 (a) determining the amount of General Fund revenue surplus after the transfer to the  
 1306 Medicaid Budget Stabilization Restricted Account under Section [~~63J-1-315 and~~ 63J-1-318,  
 1307 the General Fund Budget Reserve Account under Section [~~63J-1-312]~~ 63J-1-319, and the  
 1308 Federal Fund Replacement Budget Reserve Account under Section 63J-1-320;

1309 (b) calculating an amount equal to the lesser of:

1310 (i) 25% of the amount determined under Subsection (2)(a); or

1311 (ii) 6% of the total of the General Fund appropriation amount for the fiscal year in  
 1312 which the surplus occurs; and

1313 (c) adding to the amount calculated under Subsection (2)(b) an amount equal to the  
 1314 lesser of:

1315 (i) 25% more of the amount described in Subsection (2)(a); or

1316 (ii) the amount necessary to replace, in accordance with this Subsection (2)(c), any  
 1317 amount appropriated from the State Disaster Recovery Restricted Account within 10 fiscal  
 1318 years before the fiscal year in which the surplus occurs if:

1319 (A) a surplus exists; and

1320 (B) the Legislature appropriates money from the State Disaster Recovery Restricted  
 1321 Account that is not replaced by appropriation or as provided in this Subsection (2)(c).

1322 (3) Notwithstanding Subsection (2), if, at the end of a fiscal year, the Division of  
 1323 Finance determines that an operating deficit exists, the division shall reduce the transfer to the  
 1324 State Disaster Recovery Restricted Account by the amount necessary to eliminate the operating  
 1325 deficit.

1326 Section 15. Section **63J-1-322**, which is renumbered from Section 63J-1-313 is  
 1327 renumbered and amended to read:

1328 ~~[63J-1-313]~~. **63J-1-322. Establishing an Education Budget Reserve**  
 1329 **Account -- Providing for deposits and expenditures from the account -- Providing for**

1330 **interest generated by the account.**

1331 (1) As used in this section:

1332 (a) "Education Fund appropriations" means the sum of the spending authority for a  
1333 fiscal year that is:

1334 (i) granted by the Legislature in all appropriation acts and bills; and

1335 (ii) identified as coming from the Education Fund.

1336 ~~[(b) "Education Fund budget deficit" means a situation where appropriations made by  
1337 the Legislature from the Education Fund for a fiscal year exceed the estimated revenues  
1338 adopted by the Executive Appropriations Committee of the Legislature for the Education Fund  
1339 in that fiscal year.]~~

1340 ~~[(e)]~~ (b) "Education Fund revenue surplus" means a situation where actual Education  
1341 Fund revenues collected in a completed fiscal year exceed the estimated revenues for the  
1342 Education Fund in that fiscal year that were adopted by the Executive Appropriations  
1343 Committee of the Legislature.

1344 ~~[(d)]~~ (c) "Operating deficit" means that, at the end of the fiscal year, the unassigned  
1345 fund balance in the Education Fund is less than zero.

1346 (2) There is created within the Education Fund a restricted account to be known as the  
1347 Education Fund Budget Reserve Account, which is designated to receive the legislative  
1348 appropriations and the surplus revenue required to be deposited into the account by this section.

1349 (3) (a) (i) Except as provided in Subsection (3)(a)(ii), at the end of any fiscal year in  
1350 which the Division of Finance, in consultation with the Legislative Fiscal Analyst and in  
1351 conjunction with the completion of the annual audit by the state auditor, determines that there  
1352 is an Education Fund revenue surplus, the Division of Finance shall transfer 25% of the  
1353 Education Fund revenue surplus to the Education Fund Budget Reserve Account.

1354 (ii) If the transfer of 25% of the Education Fund revenue surplus to the Education Fund  
1355 Budget Reserve Account under Subsection (3)(a)(i) would cause the balance in the account to  
1356 exceed 7% of Education Fund appropriations for the fiscal year in which the Education Fund  
1357 revenue surplus occurred, the Division of Finance shall transfer only those funds necessary to  
1358 ensure that the balance in the account equals 7% of the Education Fund appropriations for the  
1359 fiscal year in which the Education Fund revenue surplus occurred.

1360 (iii) The Division of Finance shall calculate the amount to be transferred under this

1361 Subsection (3)(a):

1362 (A) before transferring from the Education Fund revenue surplus any other year-end  
1363 contingency appropriations, year-end set-asides, or other year-end transfers required by law;  
1364 and

1365 (B) excluding any direct legislative appropriation made to the Education Fund Budget  
1366 Reserve Account for the fiscal year.

1367 (b) (i) Except as provided in Subsection (3)(b)(ii), in addition to Subsection (3)(a)(i), if  
1368 an Education Fund revenue surplus exists and if, within the last 10 years, the Legislature has  
1369 appropriated any money from the Education Fund Budget Reserve Account that has not been  
1370 replaced by appropriation or as provided in this Subsection (3)(b), the Division of Finance shall  
1371 transfer up to 25% more of the Education Fund revenue surplus to the Education Fund Budget  
1372 Reserve Account to replace the amounts appropriated, until direct legislative appropriations, if  
1373 any, and transfers from the Education Fund revenue surplus under this Subsection (3)(b) have  
1374 replaced the appropriations from the account.

1375 (ii) If the transfer under Subsection (3)(b)(i) would cause the balance in the account to  
1376 exceed 7% of Education Fund appropriations for the fiscal year in which the Education Fund  
1377 revenue surplus occurred, the Division of Finance shall transfer only those funds necessary to  
1378 ensure that the balance in the account equals 7% of Education Fund appropriations for the  
1379 fiscal year in which the revenue surplus occurred.

1380 (iii) The Division of Finance shall calculate the amount to be transferred under this  
1381 Subsection (3)(b):

1382 (A) before transferring from the Education Fund revenue surplus any other year-end  
1383 contingency appropriations, year-end set-asides, or other year-end transfers required by law;  
1384 and

1385 (B) excluding any direct legislative appropriation made to the Education Fund Budget  
1386 Reserve Account for the fiscal year.

1387 (c) For appropriations made by the Legislature to the Education Fund Budget Reserve  
1388 Account, the Division of Finance shall treat those appropriations, unless specified otherwise in  
1389 the appropriation, as replacement funds for appropriations made from the account if funds were  
1390 appropriated from the account within the past 10 years and have not yet been replaced.

1391 (4) Notwithstanding Subsection (3), if, at the end of a fiscal year, the Division of

1392 Finance determines that an operating deficit exists, the Division of Finance may reduce the  
1393 transfer to the Education Fund Budget Reserve Account by the amount necessary to eliminate  
1394 the operating deficit.

1395 (5) The Legislature may appropriate money from the Education Fund Budget Reserve  
1396 Account only to resolve an Education Fund budget deficit.

1397 (6) Interest generated from investments of money in the Education Fund Budget  
1398 Reserve Account shall be deposited into the Education Fund.

1399 Section 16. Section **63J-3-103** is amended to read:

1400 **63J-3-103. Definitions.**

1401 As used in this chapter:

1402 (1) (a) "Appropriations" means actual unrestricted capital and operating appropriations  
1403 from unrestricted General Fund and Education Fund sources.

1404 (b) "Appropriations" includes appropriations that are contingent upon available  
1405 surpluses in the General Fund and Education Fund.

1406 (c) "Appropriations" does not mean:

1407 (i) public education expenditures;

1408 (ii) Utah Education Network expenditures in support of public education;

1409 (iii) Utah College of Applied Technology expenditures in support of public education;

1410 (iv) Tax Commission expenditures related to collection of income taxes in support of  
1411 public education;

1412 (v) debt service expenditures;

1413 (vi) emergency expenditures;

1414 (vii) expenditures from all other fund or subfund sources;

1415 (viii) transfers or appropriations from the Education Fund to the Uniform School Fund;

1416 (ix) transfers into, or appropriations made to, the General Fund Budget Reserve  
1417 Account established in Section [~~63J-1-312~~] 63J-1-319;

1418 (x) transfers into, or appropriations made to, the Federal Fund Replacement Budget  
1419 Reserve Account established in Section 63J-1-320;

1420 [~~(xi)~~] (xi) transfers into, or appropriations made to, the Education Budget Reserve  
1421 Account established in Section [~~63J-1-313~~] 63J-1-322;

1422 [~~(xi)~~] (xii) transfers in accordance with Section [~~63J-1-314~~] 63J-1-321 into, or

1423 appropriations made to the State Disaster Recovery Restricted Account created in Section  
1424 53-2-403;

1425 ~~[(xii)]~~ (xiii) money appropriated to fund the total one-time project costs for the  
1426 construction of capital developments as defined in Section 63A-5-104;

1427 ~~[(xiii)]~~ (xiv) transfers or deposits into or appropriations made to the Centennial  
1428 Highway Fund Restricted Account created by Section 72-2-118;

1429 ~~[(xiv)]~~ (xv) transfers or deposits into or appropriations made to the Transportation  
1430 Investment Fund of 2005 created by Section 72-2-124;

1431 ~~[(xv)]~~ (xvi) transfers or deposits into or appropriations made to:

1432 (A) the Department of Transportation from any source; or

1433 (B) any transportation-related account or fund from any source; or

1434 ~~[(xvi)]~~ (xvii) supplemental appropriations from the General Fund to the Division of  
1435 Forestry, Fire, and State Lands to provide money for wildland fire control expenses incurred  
1436 during the current or previous fire years.

1437 (2) "Base year real per capita appropriations" means the result obtained for the state by  
1438 dividing the fiscal year 1985 actual appropriations of the state less debt money by:

1439 (a) the state's July 1, 1983 population; and

1440 (b) the fiscal year 1983 inflation index divided by 100.

1441 (3) "Calendar year" means the time period beginning on January 1 of any given year  
1442 and ending on December 31 of the same year.

1443 (4) "Fiscal emergency" means an extraordinary occurrence requiring immediate  
1444 expenditures and includes the settlement under Laws of Utah 1988, Fourth Special Session,  
1445 Chapter 4.

1446 (5) "Fiscal year" means the time period beginning on July 1 of any given year and  
1447 ending on June 30 of the subsequent year.

1448 (6) "Fiscal year 1985 actual base year appropriations" means fiscal year 1985 actual  
1449 capital and operations appropriations from General Fund and non-Uniform School Fund  
1450 income tax revenue sources, less debt money.

1451 (7) "Inflation index" means the change in the general price level of goods and services  
1452 as measured by the Gross National Product Implicit Price Deflator of the Bureau of Economic  
1453 Analysis, U.S. Department of Commerce calculated as provided in Section 63J-3-202.

1454 (8) (a) "Maximum allowable appropriations limit" means the appropriations that could  
1455 be, or could have been, spent in any given year under the limitations of this chapter.

1456 (b) "Maximum allowable appropriations limit" does not mean actual appropriations  
1457 spent or actual expenditures.

1458 (9) "Most recent fiscal year's inflation index" means the fiscal year inflation index two  
1459 fiscal years previous to the fiscal year for which the maximum allowable inflation and  
1460 population appropriations limit is being computed under this chapter.

1461 (10) "Most recent fiscal year's population" means the fiscal year population two fiscal  
1462 years previous to the fiscal year for which the maximum allowable inflation and population  
1463 appropriations limit is being computed under this chapter.

1464 (11) "Population" means the number of residents of the state as of July 1 of each year  
1465 as calculated by the Governor's Office of Planning and Budget according to the procedures and  
1466 requirements of Section 63J-3-202.

1467 (12) "Revenues" means the revenues of the state from every tax, penalty, receipt, and  
1468 other monetary exaction and interest connected with it that are recorded as unrestricted revenue  
1469 of the General Fund and from non-Uniform School Fund income tax revenues, except as  
1470 specifically exempted by this chapter.

1471 (13) "Security" means any bond, note, warrant, or other evidence of indebtedness,  
1472 whether or not the bond, note, warrant, or other evidence of indebtedness is or constitutes an  
1473 "indebtedness" within the meaning of any provision of the constitution or laws of this state.

1474 Section 17. Section **63M-1-905** is amended to read:

1475 **63M-1-905. Loans, grants, and assistance -- Repayment -- Earned credits.**

1476 (1) (a) A company that qualifies under Section 63M-1-906 may receive loans, grants,  
1477 or other financial assistance from the Industrial Assistance Account for expenses related to  
1478 establishment, relocation, or development of industry in Utah.

1479 (b) A company creating an economic impediment that qualifies under Section  
1480 63M-1-908 may in accordance with this part receive loans, grants, or other financial assistance  
1481 from the restricted account for the expenses of the company creating an economic impediment  
1482 related to:

1483 (i) relocation to a rural area in Utah of the company creating an economic impediment;  
1484 and



1485 (ii) the siting of a replacement company.

1486 (c) An entity offering an economic opportunity that qualifies under Section 63M-1-909

1487 may:

1488 (i) receive loans, grants, or other financial assistance from the restricted account for  
1489 expenses related to the establishment, relocation, retention, or development of industry in the  
1490 state; and

1491 (ii) include infrastructure or other economic development precursor activities that act  
1492 as a catalyst and stimulus for economic activity likely to lead to the maintenance or  
1493 enlargement of the state's tax base.

1494 (2) (a) Subject to Subsection (2)(b), the administrator has authority to determine the  
1495 structure, amount, and nature of any loan, grant, or other financial assistance from the restricted  
1496 account.

1497 (b) Loans made under Subsection (2)(a) shall be structured so the intended repayment  
1498 or return to the state, including cash or credit, equals at least the amount of the assistance  
1499 together with an annual interest charge as negotiated by the administrator.

1500 (c) Payments resulting from grants awarded from the restricted account shall be made  
1501 only after the administrator has determined that the company has satisfied the conditions upon  
1502 which the payment or earned credit was based.

1503 (3) (a) (i) Except as provided in Subsection (3)(b), the administrator may provide for a  
1504 system of earned credits that may be used to support grant payments or in lieu of cash  
1505 repayment of a restricted account loan obligation.

1506 (ii) The value of the credits described in Subsection (3)(a)(i) shall be based on factors  
1507 determined by the administrator, including:

1508 (A) the number of Utah jobs created;

1509 (B) the increased economic activity in Utah; or

1510 (C) other events and activities that occur as a result of the restricted account assistance.

1511 (b) (i) The administrator shall provide for a system of credits to be used to support  
1512 grant payments or in lieu of cash repayment of a restricted account loan when loans are made to  
1513 a company creating an economic impediment.

1514 (ii) The value of the credits described in Subsection (3)(b)(i) shall be based on factors  
1515 determined by the administrator, including:

- 1516 (A) the number of Utah jobs created;
- 1517 (B) the increased economic activity in Utah; or
- 1518 (C) other events and activities that occur as a result of the restricted account assistance.

1519 (4) (a) A cash loan repayment or other cash recovery from a company receiving  
1520 assistance under this section, including interest, shall be deposited into the restricted account.

1521 (b) The administrator and the Division of Finance shall determine the manner of  
1522 recognizing and accounting for the earned credits used in lieu of loan repayments or to support  
1523 grant payments as provided in Subsection (3).

1524 (5) (a) (i) At the end of each fiscal year, the Division of Finance shall set aside the  
1525 balance of the General Fund revenue surplus as defined in Section [~~63J-1-312~~] 63J-1-317 after  
1526 the transfers of General Fund revenue surplus described in Subsection (5)(b) to the Industrial  
1527 Assistance Account in an amount equal to any credit that has accrued under this part.

1528 (ii) The set aside under Subsection (5)(a)(i) shall be capped at \$50,000,000, at which  
1529 time no subsequent contributions may be made and any interest accrued above the \$50,000,000  
1530 cap shall be deposited into the General Fund.

1531 (b) The set aside required by Subsection (5)(a) shall be made after the transfer of  
1532 surplus General Fund revenue surplus is made:

1533 (i) to the Medicaid Growth Reduction and Budget Stabilization Restricted Account, as  
1534 provided in Section [~~63J-1-315~~] 63J-1-318;

1535 (ii) to the General Fund Budget Reserve Account, as provided in Section [~~63J-1-312~~]  
1536 63J-1-319; [~~and~~]

1537 (iii) to the Federal Fund Replacement Budget Reserve Account, as provided in Section  
1538 63J-1-320; and

1539 [~~(iii)~~] (iv) to the State Disaster Recovery Restricted Account, as provided in Section  
1540 [~~63J-1-314~~] 63J-1-321.

1541 (c) These credit amounts may not be used for purposes of the restricted account as  
1542 provided in this part until appropriated by the Legislature.

1543 Section 18. **Effective date.**

1544 This bill takes effect on July 1, 2012.

**Legislative Review Note**  
as of 1-31-12 4:21 PM

**Office of Legislative Research and General Counsel**