

Representative Jim Bird proposes the following substitute bill:

FUNDING FOR PUBLIC EDUCATION

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jim Bird

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Alcoholic Beverage Control Act and the Funds Consolidation Act to allocate certain revenues from the sale of liquor to support public education.

Highlighted Provisions:

This bill:

▸ defines terms;

▸ **H→ for liquor revenue collected during the 2012-13 fiscal year only, ←H** directs the deposit of 25% of the growth in the amount of liquor revenues to the Education Fund;

▸ provides for the distribution of the liquor revenues to local educational agencies;

and

▸ addresses money deposited into the Education Fund.

Money Appropriated in this Bill:

This bill appropriates:

▸ to the State Board of Education, as **H→ [an ongoing] a one-time ←H** appropriation:

• from the Education Fund, \$7,461,600 subject to intent language that states that the appropriation is to be distributed as provided in statute.

Other Special Clauses:

This bill takes effect on July 1, 2013.



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **32B-2-301**, as last amended by Laws of Utah 2012, Chapter 357

29 **51-5-4**, as last amended by Laws of Utah 2010, Chapter 278

30 ENACTS:

31 **32B-2-307**, Utah Code Annotated 1953



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

34 Section 1. Section **32B-2-301** is amended to read:

35 **32B-2-301. State property -- Liquor Control Fund -- Markup Holding Fund.**

36 (1) The following are property of the state:

37 (a) the money received in the administration of this title, except as otherwise provided;

38 and

39 (b) property acquired, administered, possessed, or received by the department.

40 (2) (a) There is created an enterprise fund known as the "Liquor Control Fund."

41 (b) Except as provided in Sections 32B-3-205 and 32B-2-304, money received in the
42 administration of this title shall be transferred to the Liquor Control Fund.

43 (3) (a) There is created an enterprise fund known as the "Markup Holding Fund."

44 (b) In accordance with Section 32B-2-304, the State Tax Commission shall deposit
45 revenue remitted to the State Tax Commission from the markup imposed under Section
46 32B-2-304 into the Markup Holding Fund.

47 (c) Money deposited into the Markup Holding Fund may be expended:

48 (i) to the extent appropriated by the Legislature; and

49 (ii) to fund the deposits required by Subsection 32B-2-304(4) [~~and~~], Subsection
50 32B-2-305(4), and Subsection 32B-2-307(2).

51 (4) The state treasurer shall by warrant draw from the Liquor Control Fund and, to the
52 extent appropriated by the Legislature, from the Markup Holding Fund, the expenses, debts,
53 and liabilities incurred by the department in connection with the administration of this title or
54 any other expense necessary for the administration of this title, including:

55 (a) salaries;

56 (b) premiums, if any, on a bond for which the department pays premiums; and

57 (c) an expenditure incurred in establishing, operating, or maintaining a state store or
58 package agency.

59 (5) The department shall transfer annually from the Liquor Control Fund and the State
60 Tax Commission shall transfer annually from the Markup Holding Fund to the General Fund a
61 sum equal to the amount of net profit earned from the sale of liquor since the preceding transfer
62 of money under this Subsection (5). The transfers shall be calculated by no later than
63 September 1 and made by no later than September 30 after a fiscal year.

64 (6) (a) By the end of each day, the department shall:

65 (i) make a deposit to a qualified depository, as defined in Section 51-7-3; and

66 (ii) report the deposit to the state treasurer.

67 (b) A commissioner or department employee is not personally liable for a loss caused
68 by the default or failure of a qualified depository.

69 (c) Money deposited in a qualified depository is entitled to the same priority of
70 payment as other public funds of the state.

71 (7) If the cash balance of the Liquor Control Fund is not adequate to cover a warrant
72 drawn against the Liquor Control Fund by the state treasurer, the cash resources of the General
73 Fund may be used to the extent necessary. At no time may the fund equity of the Liquor
74 Control Fund fall below zero.

75 Section 2. Section **32B-2-307** is enacted to read:

76 **32B-2-307. H→ [is enacted to read:] Public education deposit of certain liquor profits. ←H**

77 (1) As used in this section:

78 (a) "Eligible liquor funds" means an amount equal to the difference between the
79 amount of revenue collected from the total gross revenue from sales of liquor in:

80 (i) the fiscal year H→ [one year preceding] that is two years prior to ←H the fiscal year
80a for which the deposit is made; and

81 (ii) fiscal year 2010-11.

82 (b) "Local education agency" means a local education agency in Utah that has
83 administrative control and direction for public education.

84 (c) "Weighted pupil units H→ " ←H or H→ " ←H WPU" is as defined in
84a Section 53A-17a-103.

85 (2) **H→ [The] For liquor revenue collected in fiscal year 2012-13 only, the ←H Division**
85a of Finance shall deposit 25% of eligible liquor funds from the
86 Markup Holding Fund described in Section 32B-2-301 H→ [;] ←H with the state treasurer
86a to be credited to
87 the Education Fund to be distributed to local education agencies as provided in Subsection (3).

88 (3) For ~~H~~ ~~→~~ [a] the ~~←H~~ fiscal year beginning on ~~H~~ ~~→~~ [or after] ~~←H~~ July 1, 2013
 88a ~~H~~ ~~→~~ only ~~←H~~ , the State Board of Education
 89 shall ~~H~~ ~~→~~ [annually] ~~←H~~ distribute the eligible funds described in Subsection (2) on or after
 89a October 1 of
 90 the fiscal year to local education agencies based on the number of WPUs in the local education
 91 agency on the previous October 1 as compared to the state total.

92 Section 3. Section **51-5-4** is amended to read:

93 **51-5-4. Funds established -- Titles of funds -- Fund functions.**

94 (1) (a) (i) The funds enumerated in this section are established as major fund types.

95 (ii) All resources and financial transactions of Utah state government shall be
 96 accounted for within one of these major fund types.

97 (b) (i) All funds or subfunds shall be consolidated into one of the state's major fund
 98 types.

99 (ii) Where a specific statute requires that a restricted fund or account be established,
 100 that fund or account shall be accounted for as an individual fund, subfund, or account within
 101 the major fund type to meet generally accepted accounting principles.

102 (iii) Existing and new activities of state government authorized by the Legislature shall
 103 be accounted for within the framework of the major fund types established in this section.

104 (c) The Division of Finance shall determine the accounting classification that complies
 105 with generally accepted accounting principles for all funds, subfunds, or accounts created by
 106 the Legislature.

107 (d) (i) Major fund types shall be added by amending this chapter.

108 (ii) Whenever a new act creates or establishes a fund, subfund, or account without
 109 amending this chapter, the reference to a fund, subfund, or account in the new act shall be
 110 classified within one of the major fund types established by this section.

111 (2) Major Fund Type Titles:

112 (a) General Fund;

113 (b) Special Revenue Funds;

114 (c) Capital Projects Funds;

115 (d) Debt Service Funds;

116 (e) Permanent Funds;

117 (f) Enterprise Funds;

118 (g) Internal Service Funds;

119 (h) Trust and Agency Funds; and

120 (i) Discrete Component Unit Funds.

121 (3) The General Fund shall receive all revenues and account for all expenditures not
122 otherwise provided for by law in any other fund.

123 (4) Special Revenue Funds account for proceeds of specific revenue sources, other than
124 permanent funds, trust and agency funds, or major capital projects, that are legally restricted to
125 expenditures for a specific purpose.

126 (a) The Education Fund is a Special Revenue Fund that:

127 (i) receives all revenues from taxes on intangible property [σ], from a tax on income,
128 or money given to the fund under law; and

129 (ii) is designated for public and higher education.

130 (b) The Transportation Investment Fund of 2005 is a Special Revenue Fund that
131 accounts for revenues that are required by law to be expended for the maintenance,
132 construction, reconstruction, or renovation of certain state and federal highways.

133 (c) The Transportation Fund is a Special Revenue Fund that accounts for all revenues
134 that are required by law to be expended for highway purposes.

135 (d) (i) A Restricted Special Revenue Fund is a Special Revenue Fund created by
136 legislation or contractual relationship with parties external to the state that:

137 (A) identifies specific revenues collected from fees, taxes, dedicated credits, donations,
138 federal funds, or other sources;

139 (B) defines the use of the money in the fund for a specific function of government or
140 program within an agency; and

141 (C) delegates spending authority or authorization to use the fund's assets to a governing
142 board, administrative department, or other officials as defined in the enabling legislation or
143 contract establishing the fund.

144 (ii) A Restricted Special Revenue Fund may only be created by contractual relationship
145 with external parties when the sources of revenue for the fund are donated revenues or federal
146 revenues.

147 (iii) Restricted Special Revenue Funds are subject to annual legislative review by the
148 appropriate legislative appropriations subcommittee.

149 (5) Capital Projects Funds account for financial resources to be expended for the

150 acquisition or construction of major capital facilities, except that when financing for the
151 acquisition or construction of a major capital facility is obtained from a trust fund or a
152 proprietary type fund within one of the major fund types, the money shall be accounted for in
153 those accounts.

154 (6) Debt Service Funds account for the accumulation of resources for, and the payment
155 of, the principal and interest on general long-term obligations.

156 (7) Permanent Funds account for assets that are legally restricted to the extent that only
157 earnings, and not principal, may be used for a specific purpose.

158 (8) Enterprise Funds are designated to account for the following:

159 (a) operations, financed and operated in a manner similar to private business
160 enterprises, where the Legislature intends that the costs of providing goods or services to the
161 public are financed or recovered primarily through user charges;

162 (b) operations where the Legislature requires periodic determination of revenues
163 earned, expenses incurred, and net income;

164 (c) operations for which a fee is charged to external users for goods or services; or

165 (d) operations that are financed with debt that is secured solely by a pledge of the net
166 revenues from fees and charges of the operations.

167 (9) Internal Service Funds account for the financing of goods or services provided by
168 one department, division, or agency to other departments, divisions, or agencies of the state, or
169 to other governmental units, on a cost-reimbursement basis.

170 (10) (a) Trust and Agency Funds account for assets held by the state as trustee or agent
171 for individuals, private organizations, or other governmental units.

172 (b) Pension Trust Funds, Investment Trust Funds, Private-Purpose Trust Funds, and
173 Agency Funds are Trust and Agency Funds.

174 (11) Discrete Component Unit Funds account for the financial resources used to
175 operate the state's colleges and universities and other discrete component units.

176 **Section 4. Appropriation.**

177 Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for
178 the fiscal year beginning July 1, 2013, and ending June 30, 2014, the following sums of money
179 are appropriated from resources not otherwise appropriated, or reduced from amounts
180 previously appropriated, out of the funds or accounts indicated. These sums of money are in

181 addition to any amounts previously appropriated for fiscal year 2014.

182 To Related to Basic Programs

183 From Education Fund ~~H→~~ , **one-time** ~~←H~~ \$7,461,600

184 Schedule of Programs:

185 Liquor Revenues Allocation \$7,461,600

186 It is the intent of the Legislature that the State Board of Education shall allocate the
187 money appropriated under this item in accordance with Section 32B-2-307.

188 **Section 5. Effective date.**

189 This bill takes effect on July 1, 2013.