

Representative Walt Brooks proposes the following substitute bill:

DEPARTMENT OF ALCOHOLIC BEVERAGE SERVICES

AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Walt Brooks

Senate Sponsor: _____

LONG TITLE

General Description:

This bill allows the Department of Alcoholic Beverage Services (department) to retain a percentage of the department's profits to use to enhance productivity and customer experience.

Highlighted Provisions:

This bill:

- ▶ permits the department to retain a percentage of the department's profit from liquor sales from the previous fiscal year to use for certain expenditures or purchases to enhance productivity or improve customer experience (innovation funds);
- ▶ requires the department to make rules to set standards for the use of innovation funds;
- ▶ defines terms; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **32B-2-301**, as last amended by Laws of Utah 2022, Chapter 447

29 **63J-1-602.2**, as last amended by Laws of Utah 2022, Chapters 59, 68, 154, 224, 236,

30 242, and 447 and last amended by Coordination Clause, Laws of Utah 2022,

31 Chapter 154

32

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 -- Money to be retained by**
36 **department -- Department building process.**

37 (1) As used in this section, "base budget" means the same as that term is defined in
38 legislative rule.

39 (2) The following are property of the state:

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

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

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

44 (b) Except as provided in Sections **32B-2-304**, **32B-2-305**, and **32B-2-306**, the
45 department shall deposit the following into the Liquor Control Fund:

46 (i) money received in the administration of this title; and

47 (ii) money received from the markup described in Section **32B-2-304**.

48 (c) The department may draw from the Liquor Control Fund only to the extent
49 appropriated by the Legislature or provided by statute.

50 (d) The net position of the Liquor Control Fund may not fall below zero.

51 (4) (a) Notwithstanding Subsection (3)(c), the department may draw by warrant from
52 the Liquor Control Fund without an appropriation for an expenditure that is directly incurred by
53 the department:

54 (i) to purchase an alcoholic product;

55 (ii) to transport an alcoholic product from the supplier to a warehouse of the
56 department; or

- 57 (iii) for variances related to an alcoholic product, including breakage or theft.
- 58 (b) If the balance of the Liquor Control Fund is not adequate to cover a warrant that the
59 department draws against the Liquor Control Fund, to the extent necessary to cover the
60 warrant, the cash resources of the General Fund may be used.
- 61 (5) The department's base budget shall include as an appropriation from the Liquor
62 Control Fund:
- 63 (a) credit card related fees paid by the department;
 - 64 (b) package agency compensation;
 - 65 (c) the department's costs of shipping and warehousing alcoholic products; and
 - 66 (d) the amount needed, as the Division of Human Resource Management determines,
67 to make the median department salary in the previous fiscal year equal the median market
68 salary in the previous fiscal year for the following positions:
- 69 (i) state store manager or equivalent;
 - 70 (ii) state store assistant manager or equivalent;
 - 71 (iii) full-time sales clerk at a state store or equivalent;
 - 72 (iv) part-time sales clerk at a state store or equivalent;
 - 73 (v) department warehouse manager or equivalent;
 - 74 (vi) department warehouse assistant manager or equivalent;
 - 75 (vii) full-time department warehouse worker or equivalent; and
 - 76 (viii) part-time department warehouse worker or equivalent.
- 77 (6) (a) The Division of Finance shall transfer annually from the Liquor Control Fund to
78 the General Fund a sum equal to the amount of net profit earned from the sale of liquor since
79 the preceding transfer of money under this Subsection (6).
- 80 (b) After each fiscal year, the Division of Finance shall calculate the amount for the
81 transfer on or before September 1 and the Division of Finance shall make the transfer on or
82 before September 30.
- 83 (c) The Division of Finance may make year-end closing entries in the Liquor Control
84 Fund to comply with Subsection 51-5-6(2).
- 85 (7) (a) By the end of each day, the department shall:
- 86 (i) make a deposit to a qualified depository, as defined in Section 51-7-3; and
 - 87 (ii) report the deposit to the state treasurer.

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

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

92 (8) (a) As used in this Subsection (8), "innovation funds" means funds retained under
93 Subsection (8)(b)(ii).

94 (b) Before the Division of Finance makes the transfer described in Subsection (6), the
95 department may retain each fiscal year from the Liquor Control Fund:

96 (i) \$1,000,000 that the department may use for:

97 ~~[(a)]~~ (A) capital equipment purchases;

98 ~~[(b)]~~ (B) salary increases for department employees;

99 ~~[(c)]~~ (C) performance awards for department employees; or

100 ~~[(d)]~~ (D) information technology enhancements because of changes or trends in
101 technology[-]; and

102 (ii) the lesser of:

103 (A) 1.5% of the of the amount described in Subsection (6); or

104 (B) the average amount of funds retained under this Subsection (8)(b) for the two
105 immediately preceding fiscal years.

106 (c) The department may use innovation funds for expenditures or purchases to enhance
107 productivity or improve customer experience including to pay for:

108 (i) equipment;

109 (ii) hardware;

110 (iii) technology;

111 (iv) employee programs, including:

112 (A) career development programs;

113 (B) educational support;

114 (C) training programs; and

115 (D) incentive programs;

116 (v) customer survey solutions;

117 (vi) product life cycle management solutions;

118 (vii) supply chain management solutions; and

119 (viii) warehouse improvement programs.
120 (d) (i) The department may fund an ongoing expense with innovation funds:
121 (A) if the expense is not an existing expense; and
122 (B) for two consecutive fiscal years.
123 (ii) After two fiscal years, the department may continue to fund an ongoing expense
124 described in Subsection (8)(d)(i) through the department's base budget.

125 (e) The department shall make rules in accordance with Title 63G, Chapter 3, Utah
126 Administrative Rulemaking Act, to set standards for the use of innovation funds consistent
127 with the provisions of this Subsection (8).

128 Section 2. Section **63J-1-602.2** is amended to read:

129 **63J-1-602.2. List of nonlapsing appropriations to programs.**

130 Appropriations made to the following programs are nonlapsing:

- 131 (1) The Legislature and the Legislature's committees.
- 132 (2) The State Board of Education, including all appropriations to agencies, line items,
133 and programs under the jurisdiction of the State Board of Education, in accordance with
134 Section [53F-9-103](#).
- 135 (3) The Percent-for-Art Program created in Section [9-6-404](#).
- 136 (4) The LeRay McAllister Critical Land Conservation Program created in Section
137 [4-46-301](#).
- 138 (5) The Utah Lake Authority created in Section [11-65-201](#).
- 139 (6) Dedicated credits accrued to the Utah Marriage Commission as provided under
140 Subsection [17-16-21\(2\)\(d\)\(ii\)](#).
- 141 (7) The Division of Wildlife Resources for the appraisal and purchase of lands under
142 the Pelican Management Act, as provided in Section [23-21a-6](#).
- 143 (8) The Emergency Medical Services Grant Program in Section [26-8a-207](#).
- 144 (9) The primary care grant program created in Section [26-10b-102](#).
- 145 (10) Sanctions collected as dedicated credits from Medicaid providers under
146 Subsection [26-18-3\(7\)](#).
- 147 (11) The Utah Health Care Workforce Financial Assistance Program created in Section
148 [26-46-102](#).
- 149 (12) The Rural Physician Loan Repayment Program created in Section [26-46a-103](#).

- 150 (13) The Opiate Overdose Outreach Pilot Program created in Section [26-55-107](#).
- 151 (14) The Utah Medical Education Council for the:
- 152 (a) administration of the Utah Medical Education Program created in Section
- 153 [26-69-403](#);
- 154 (b) provision of medical residency grants described in Section [26-69-407](#); and
- 155 (c) provision of the forensic psychiatric fellowship grant described in Section
- 156 [26-69-408](#).
- 157 (15) Funds that the Department of Alcoholic Beverage Services retains in accordance
- 158 with Subsection [~~[32B-2-301\(8\)\(a\) or \(b\)](#)~~] [32B-2-301\(b\)\(i\)\(A\) or \(B\)](#).
- 159 (16) The General Assistance program administered by the Department of Workforce
- 160 Services, as provided in Section [35A-3-401](#).
- 161 (17) The Utah National Guard, created in Title 39, Militia and Armories.
- 162 (18) The State Tax Commission under Section [41-1a-1201](#) for the:
- 163 (a) purchase and distribution of license plates and decals; and
- 164 (b) administration and enforcement of motor vehicle registration requirements.
- 165 (19) The Search and Rescue Financial Assistance Program, as provided in Section
- 166 [53-2a-1102](#).
- 167 (20) The Motorcycle Rider Education Program, as provided in Section [53-3-905](#).
- 168 (21) The Utah Board of Higher Education for teacher preparation programs, as
- 169 provided in Section [53B-6-104](#).
- 170 (22) Innovation grants under Section [53G-10-608](#), except as provided in Subsection
- 171 [53G-10-608\(6\)](#).
- 172 (23) The Division of Services for People with Disabilities, as provided in Section
- 173 [62A-5-102](#).
- 174 (24) The Division of Fleet Operations for the purpose of upgrading underground
- 175 storage tanks under Section [63A-9-401](#).
- 176 (25) The Utah Seismic Safety Commission, as provided in Section [63C-6-104](#).
- 177 (26) The Division of Technology Services for technology innovation as provided under
- 178 Section [63A-16-903](#).
- 179 (27) The Office of Administrative Rules for publishing, as provided in Section
- 180 [63G-3-402](#).

- 181 (28) The Colorado River Authority of Utah, created in Title 63M, Chapter 14,
182 Colorado River Authority of Utah Act.
- 183 (29) The Governor's Office of Economic Opportunity to fund the Enterprise Zone Act,
184 as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.
- 185 (30) The Governor's Office of Economic Opportunity's Rural Employment Expansion
186 Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.
- 187 (31) Programs for the Jordan River Recreation Area as described in Section 65A-2-8.
- 188 (32) The Division of Human Resource Management user training program, as provided
189 in Section 63A-17-106.
- 190 (33) A public safety answering point's emergency telecommunications service fund, as
191 provided in Section 69-2-301.
- 192 (34) The Traffic Noise Abatement Program created in Section 72-6-112.
- 193 (35) The money appropriated from the Navajo Water Rights Negotiation Account to
194 the Division of Water Rights, created in Section 73-2-1.1, for purposes of participating in a
195 settlement of federal reserved water right claims.
- 196 (36) The Judicial Council for compensation for special prosecutors, as provided in
197 Section 77-10a-19.
- 198 (37) A state rehabilitative employment program, as provided in Section 78A-6-210.
- 199 (38) The Utah Geological Survey, as provided in Section 79-3-401.
- 200 (39) The Bonneville Shoreline Trail Program created under Section 79-5-503.
- 201 (40) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and
202 78B-6-144.5.
- 203 (41) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent
204 Defense Commission.
- 205 (42) The program established by the Division of Facilities Construction and
206 Management under Section 63A-5b-703 under which state agencies receive an appropriation
207 and pay lease payments for the use and occupancy of buildings owned by the Division of
208 Facilities Construction and Management.
- 209 (43) The State Tax Commission for reimbursing counties for deferred property taxes in
210 accordance with Section 59-2-1802.