

## HB0285S01 compared with HB0285

~~text~~ shows text that was in HB0285 but was deleted in HB0285S01.

text shows text that was not in HB0285 but was inserted into HB0285S01.

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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: \_\_\_\_\_

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#### 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

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### funds:

- ▶ defines terms; and
- ▶ makes technical and conforming changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

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

**63J-1-602.2**, as last amended by Laws of Utah 2022, Chapters 59, 68, 154, 224, 236, 242, and 447 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 154

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

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

**32B-2-301. State property -- Liquor Control Fund -- Money to be retained by department -- Department building process.**

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

(2) The following are property of the state:

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

and

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

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

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

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

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

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

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

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

(i) to purchase an alcoholic product;

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

(iii) for variances related to an alcoholic product, including breakage or theft.

(b) If the balance of the Liquor Control Fund is not adequate to cover a warrant that the department draws against the Liquor Control Fund, to the extent necessary to cover the warrant, the cash resources of the General Fund may be used.

(5) The department's base budget shall include as an appropriation from the Liquor Control Fund:

(a) credit card related fees paid by the department;

(b) package agency compensation;

(c) the department's costs of shipping and warehousing alcoholic products; and

(d) the amount needed, as the Division of Human Resource Management determines, to make the median department salary in the previous fiscal year equal the median market salary in the previous fiscal year for the following positions:

(i) state store manager or equivalent;

(ii) state store assistant manager or equivalent;

(iii) full-time sales clerk at a state store or equivalent;

(iv) part-time sales clerk at a state store or equivalent;

(v) department warehouse manager or equivalent;

(vi) department warehouse assistant manager or equivalent;

(vii) full-time department warehouse worker or equivalent; and

(viii) part-time department warehouse worker or equivalent.

(6) (a) The Division of Finance shall transfer annually from the Liquor Control Fund to the General Fund a sum equal to the amount of net profit earned from the sale of liquor since the preceding transfer of money under this Subsection (6).

(b) After each fiscal year, the Division of Finance shall calculate the amount for the

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transfer on or before September 1 and the Division of Finance shall make the transfer on or before September 30.

(c) The Division of Finance may make year-end closing entries in the Liquor Control Fund to comply with Subsection 51-5-6(2).

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

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

(ii) report the deposit to the state treasurer.

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

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

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

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

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

~~(a)~~ (A) capital equipment purchases;

~~(b)~~ (B) salary increases for department employees;

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

~~(d)~~ (D) information technology enhancements because of changes or trends in

technology~~[-]; and~~

(ii) the lesser of:

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

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

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

(i) equipment;

(ii) hardware;

(iii) technology;

(iv) employee programs~~[-]; or~~

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~~(v) customer services~~, including:

(A) career development programs;

(B) educational support;

(C) training programs; and

(D) incentive programs;

(v) customer survey solutions;

(vi) product life cycle management solutions;

(vii) supply chain management solutions; and

(viii) warehouse improvement programs.

(d) (i) The department may fund an ongoing expense with innovation funds:

(A) if the expense is not an existing expense; and

(B) for two consecutive fiscal years.

(ii) After two fiscal years, the department may continue to fund an ongoing expense described in Subsection (8)(d)(i) through the department's base budget.

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

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

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

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and the Legislature's committees.

(2) The State Board of Education, including all appropriations to agencies, line items, and programs under the jurisdiction of the State Board of Education, in accordance with Section 53F-9-103.

(3) The Percent-for-Art Program created in Section 9-6-404.

(4) The LeRay McAllister Critical Land Conservation Program created in Section 4-46-301.

(5) The Utah Lake Authority created in Section 11-65-201.

(6) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

(7) The Division of Wildlife Resources for the appraisal and purchase of lands under

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the Pelican Management Act, as provided in Section 23-21a-6.

(8) The Emergency Medical Services Grant Program in Section 26-8a-207.

(9) The primary care grant program created in Section 26-10b-102.

(10) Sanctions collected as dedicated credits from Medicaid providers under Subsection 26-18-3(7).

(11) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

(12) The Rural Physician Loan Repayment Program created in Section 26-46a-103.

(13) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.

(14) The Utah Medical Education Council for the:

(a) administration of the Utah Medical Education Program created in Section 26-69-403;

(b) provision of medical residency grants described in Section 26-69-407; and

(c) provision of the forensic psychiatric fellowship grant described in Section 26-69-408.

(15) Funds that the Department of Alcoholic Beverage Services retains in accordance with Subsection [~~32B-2-301(8)(a) or (b)~~] 32B-2-301(b)(i)(A) or (B).

(16) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

(17) The Utah National Guard, created in Title 39, Militia and Armories.

(18) The State Tax Commission under Section 41-1a-1201 for the:

(a) purchase and distribution of license plates and decals; and

(b) administration and enforcement of motor vehicle registration requirements.

(19) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

(20) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

(21) The Utah Board of Higher Education for teacher preparation programs, as provided in Section 53B-6-104.

(22) Innovation grants under Section 53G-10-608, except as provided in Subsection 53G-10-608(6).

(23) The Division of Services for People with Disabilities, as provided in Section

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62A-5-102.

(24) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

(25) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

(26) The Division of Technology Services for technology innovation as provided under Section 63A-16-903.

(27) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(28) The Colorado River Authority of Utah, created in Title 63M, Chapter 14, Colorado River Authority of Utah Act.

(29) The Governor's Office of Economic Opportunity to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

(30) The Governor's Office of Economic Opportunity's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

(31) Programs for the Jordan River Recreation Area as described in Section 65A-2-8.

(32) The Division of Human Resource Management user training program, as provided in Section 63A-17-106.

(33) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

(34) The Traffic Noise Abatement Program created in Section 72-6-112.

(35) The money appropriated from the Navajo Water Rights Negotiation Account to the Division of Water Rights, created in Section 73-2-1.1, for purposes of participating in a settlement of federal reserved water right claims.

(36) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

(37) A state rehabilitative employment program, as provided in Section 78A-6-210.

(38) The Utah Geological Survey, as provided in Section 79-3-401.

(39) The Bonneville Shoreline Trail Program created under Section 79-5-503.

(40) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(41) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent

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Defense Commission.

(42) The program established by the Division of Facilities Construction and Management under Section 63A-5b-703 under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

(43) The State Tax Commission for reimbursing counties for deferred property taxes in accordance with Section 59-2-1802.