

HB0393S03 compared with HB0393S01

~~text~~ shows text that was in HB0393S01 but was deleted in HB0393S03.

text shows text that was not in HB0393S01 but was inserted into HB0393S03.

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Representative Jennifer ~~Dailey-Provost~~Dailey-Provost proposes the following substitute bill:

SERVICES FOR PEOPLE WITH DISABILITIES

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: ~~Jennifer Dailey-Provost~~Dailey-Provost

Senate Sponsor: ~~Curtis S. Bramble~~

LONG TITLE

General Description:

This bill creates the Services for People with Disabilities Perpetual Trust Fund.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Services for People with Disabilities Perpetual Trust Fund to pay for services for people on the waiting list for services with the Division of Services for People with Disabilities;
- ▶ exempts the People with Disabilities Perpetual Trust Fund from the State Money Management Act;
- ▶ allocates 5% of the General Fund revenue surplus, for two consecutive years, to the

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Services for People with Disabilities Perpetual Trust Fund; and

- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2025:

- ▶ to Department of Health and Human Services - Long-Term Services & Support - Community Supports Waiver Services as a one-time appropriation:
 - from the Income Tax Fund, One-time, ~~(\$20)~~\$5,000,000
 - from the General Fund, One-time, (\$5,000,000)
- ▶ to Department of Health and Human Services - Services for People with Disabilities Perpetual Trust Fund as an ongoing appropriation:
 - from the General Fund, \$54,861,100
- ▶ to Department of Health and Human Services - Services for People with Disabilities Perpetual Trust Fund as a one-time appropriation:
 - from the General Fund, One-time, ~~(\$400)~~(\$54,861,100)
 - from the American Rescue Plan Act Administrative Fund, One-time, \$15,000,000
- ▶ to Transfers to Unrestricted Funds - Income Tax Fund as a one-time appropriation:
 - from the American Rescue Plan Act Administrative Fund, One-time, ~~(\$20,000,000)~~
- ▶ ~~to Transportation - Transportation Investment Fund of 2005~~ \$5,000,000
- ▶ to Department of Health and Human Services - Medicaid Expansion Fund as an ongoing appropriation:
 - from the General Fund, (\$59,861,100)
- ▶ to Department of Health and Human Services - Medicaid Expansion Fund as a one-time appropriation:
 - from the General Fund, One-time, ~~(\$400,000,000)~~
- ▶ ~~from the General Fund, One-time, \$59,861,100~~
- ▶ to Department of Health and Human Services - Long-Term Services & Support - Community Supports Waiver Services as an ongoing appropriation:
 - from the General Fund, \$5,000,000

Other Special Clauses:

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None

Utah Code Sections Affected:

AMENDS:

51-7-2, as last amended by Laws of Utah 2023, Chapters 139, 242 and 328

63J-1-315, as last amended by Laws of Utah 2023, Chapter 329

63N-3-106, as last amended by Laws of Utah 2023, Chapter 499

ENACTS:

26B-1-336, Utah Code Annotated 1953

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

Section 1. Section **26B-1-336** is enacted to read:

26B-1-336. Services for People with Disabilities Perpetual Trust Fund.

(1) As used in this section:

(a) "Division" means the Division of Services for People with Disabilities created in Section 26B-6-402.

(b) "Trust corpus" means money appropriated by the Legislature to the trust fund, excluding earnings on deposit or investment of that money.

(c) "Trust earnings" means earnings on deposit or investment of assets in the trust fund, including earnings on deposit or investment of:

(i) trust corpus; and

(ii) prior earnings on deposit or investment.

(d) "Trust fund" means the Services for People with Disabilities Perpetual Trust Fund created in Subsection (2).

(2) There is created a permanent and expendable revenue fund called the Services for People with Disabilities Perpetual Trust Fund, which shall exist in perpetuity and fund division services to people with disabilities in accordance with this section.

(3) During a fiscal year for which the beginning balance in the trust fund is greater than \$400,000,000, the department or division shall expend an amount of up to 50% of trust earnings from the prior fiscal year, to serve individuals who:

(a) are eligible for services from the division; and

(b) would otherwise remain on the division's waitlist for services.

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(4) (a) The state treasurer shall:

(i) manage and invest assets in the trust fund in accordance with the prudent investor rule established in Title 75, Chapter 7, Part 9, Utah Uniform Prudent Investor Act; and

(ii) ensure that earnings on deposit or investment of assets in the trust fund, including earnings on deposit or investment of prior trust earnings, are deposited into the trust fund.

(b) The state treasurer may:

(i) deduct, before depositing trust earnings into the trust fund, any administrative costs incurred under Subsection (4)(a); and

(ii) employ and compensate professional asset managers to assist in the management and investment of assets in the trust fund, only if the compensation is paid solely with trust earnings.

(5) (a) (i) Subject to Subsection (5)(b), at the end of the fiscal years ending June 30, 2024 and 2025, the Division of Finance shall transfer 5% of the General Fund revenue surplus to the trust fund.

(ii) The Division of Finance shall calculate the amount to be transferred under this Subsection (5)(a):

(A) after the transfer of General Fund revenue surplus has been made to the Wildland Fire Suppression Fund and State Disaster Recovery Restricted Account, as provided in Section 63J-1-314; and

(B) before the set aside to the Industrial Assistance Account under Section 63N-3-106.

(b) Notwithstanding Subsection (5)(a), if, at the end of a fiscal year, the Division of Finance determines that there is an operating deficit, as defined in Section 63J-1-314, the division shall reduce the transfer to the trust fund by an amount necessary to eliminate the operating deficit, up to the full amount of the transfer.

Section 2. Section **51-7-2** is amended to read:

51-7-2. Exemptions from chapter.

(1) Except as provided in Subsection (2), the following funds are exempt from this chapter:

(a) funds invested in accordance with the participating employees' designation or direction pursuant to a public employees' deferred compensation plan established and operated in compliance with Section 457 of the Internal Revenue Code of 1986, as amended;

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- (b) funds of the Utah State Retirement Board;
- (c) funds of the Utah Housing Corporation;
- (d) endowment funds of higher education institutions, including funds of the Higher Education Student Success Endowment, created in Section 53B-7-802;
- (e) permanent and other land grant trust funds established pursuant to the Utah Enabling Act and the Utah Constitution;
- (f) the State Post-Retirement Benefits Trust Fund;
- (g) the funds of the Utah Educational Savings Plan;
- (h) funds of the permanent state trust fund created by and operated under Utah Constitution, Article XXII, Section 4;
- (i) the funds in the Navajo Trust Fund;
- (j) the funds in the Radioactive Waste Perpetual Care and Maintenance Account;
- (k) the funds in the Employers' Reinsurance Fund;
- (l) the funds in the Uninsured Employers' Fund;
- (m) the Utah State Developmental Center Long-Term Sustainability Fund, created in Section 26B-1-331;
- (n) the funds in the Risk Management Fund created in Section 63A-4-201; [~~and~~]
- (o) the Utah fund of funds created in Section 63N-6-401[-]; and
- (p) the Services for People with Disabilities Perpetual Trust Fund created in Section 26B-1-336.

(2) Except for the funds of the Utah State Retirement Board and the Utah Educational Savings Plan, the funds described in Subsection (1) are not exempt from Subsections 51-7-14(2) and (3).

Section 3. Section **63J-1-315** is amended to read:

63J-1-315. Medicaid Growth Reduction and Budget Stabilization Account -- Transfers of Medicaid growth savings -- Base budget adjustments.

(1) As used in this section:

(a) "Department" means the Department of Health and Human Services created in Section 26B-1-201.

(b) "Division" means the Division of Integrated Healthcare created in Section 26B-3-102.

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

(d) "Medicaid growth savings" means the Medicaid growth target minus Medicaid program expenditures, if Medicaid program expenditures are less than the Medicaid growth target.

(e) "Medicaid growth target" means Medicaid program expenditures for the previous year multiplied by 1.08.

(f) "Medicaid program" is as defined in Section 26B-3-101.

(g) "Medicaid program expenditures" means total state revenue expended for the Medicaid program from the General Fund, including restricted accounts within the General Fund, during a fiscal year.

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

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

(j) "State revenue" means revenue other than federal revenue.

(k) "State revenue expended for the Medicaid program" includes money transferred or appropriated to the Medicaid Growth Reduction and Budget Stabilization Account only to the extent the money is appropriated for the Medicaid program by the Legislature.

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

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

(ii) If the amount transferred is reduced to prevent an operating deficit, as provided in Subsection (6), the Legislature shall include, to the extent revenue is available, an amount

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equal to the reduction as an appropriation from the General Fund to the account in the base budget for the second fiscal year following the fiscal year for which the reduction was made.

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

(c) Subsections (3)(a) and (3)(b) apply only to the fiscal year in which the department implements the proposal developed under Section 26B-3-202 to reduce the long-term growth in state expenditures for the Medicaid program, and to each fiscal year after that year.

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

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

(i) the General Fund Budget Reserve Account under Section 63J-1-312;

(ii) the Wildland Fire Suppression Fund created in Section 65A-8-204, as described in Section 63J-1-314; ~~and~~

(iii) the State Disaster Recovery Restricted Account under Section 63J-1-314; and

(iv) the Services for People with Disabilities Perpetual Trust Fund under Subsection 26B-1-336(5);

(b) before earmarking revenue from the General Fund revenue surplus to the Industrial Assistance Account under Section 63N-3-106; and

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

(5) (a) If, at the close of any fiscal year, there appears to be insufficient money to pay additional debt service for any bonded debt authorized by the Legislature, the Division of Finance may hold back from any General Fund revenue surplus money sufficient to pay the additional debt service requirements resulting from issuance of bonded debt that was authorized by the Legislature.

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

(c) If, after calculating the amount for transfer under Subsection (3), the remaining General Fund revenue surplus is insufficient to cover the hold back for debt service required by

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Subsection (5)(a), the Division of Finance shall reduce the transfer to the Medicaid Growth Reduction and Budget Stabilization Account by the amount necessary to cover the debt service hold back.

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

(6) Notwithstanding Subsections (3) and (4), if, at the end of a fiscal year, the Division of Finance determines that an operating deficit exists and that holding back earmarks to the Industrial Assistance Account under Section 63N-3-106, transfers to the Services for People with Disabilities Perpetual Trust Fund under Section 26B-1-336, transfers to the Wildland Fire Suppression Fund and State Disaster Recovery Restricted Account under Section 63J-1-314, transfers to the General Fund Budget Reserve Account under Section 63J-1-312, or earmarks and transfers to more than one of those accounts, in that order, does not eliminate the operating deficit, the Division of Finance may reduce the transfer to the Medicaid Growth Reduction and Budget Stabilization Account by the amount necessary to eliminate the operating deficit.

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

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

(b) for the Medicaid program.

(8) The Division of Finance shall deposit interest or other earnings derived from investment of Medicaid Growth Reduction and Budget Stabilization Account money into the General Fund.

Section 4. Section **63N-3-106** is amended to read:

63N-3-106. Structure of loans, grants, and assistance -- Repayment -- Earned credits.

(1) (a) Subject to Subsection (1)(b), the administrator has authority to determine the structure, amount, and nature of any loan, grant, or other financial assistance from the restricted account.

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

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

(2) (a) The administrator may provide for a system of earned credits that may be used to support grant payments or in lieu of cash repayment of a restricted account loan obligation.

(b) The value of the credits described in Subsection (2)(a) shall be based on factors determined by the administrator, including:

- (i) the number of Utah jobs created;
- (ii) the increased economic activity in Utah; or
- (iii) other events and activities that occur as a result of the restricted account assistance.

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

(b) The administrator and the Division of Finance shall determine the manner of recognizing and accounting for the earned credits used in lieu of loan repayments or to support grant payments as provided in Subsection (2).

(4) (a) (i) At the end of each fiscal year, the Division of Finance shall set aside the balance of the General Fund revenue surplus as defined in Section 63J-1-312 after the transfers of General Fund revenue surplus described in Subsection (4)(b) to the Industrial Assistance Account in an amount equal to any credit that has accrued under this part.

(ii) The set aside under Subsection (4)(a)(i) shall be capped at \$50,000,000, at which time no subsequent contributions may be made and any interest accrued above the \$50,000,000 cap shall be deposited into the General Fund.

(b) The set aside required by Subsection (4)(a) shall be made after the transfer of surplus General Fund revenue surplus is made to:

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

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

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(iii) [~~to~~] the Wildland Fire Suppression Fund [~~or~~] and State Disaster Recovery Restricted Account, as provided in Section 63J-1-314; and

(iv) the Services for People with Disabilities Perpetual Trust Fund, as provided in Subsection 26B-1-336(5).

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

Section 5. FY 2025 Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.

Subsection 5(a). Operating and Capital Budgets.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1 To Department of Health and Human Services - Long-Term Services & Support

	<u>From General Fund, One-time</u>	<u>(\$5,000,000)</u>
=	<u>From General Fund</u>	<u>\$5,000,000</u>
=	From Income Tax Fund, One-time	(\$20) <u>\$5,000,0</u>
		00

Schedule of Programs:

Community Supports Waiver Services	(\$20) <u>\$5,000,00</u>
	0

~~{The Legislature intends that \$10,000,000 provided by this item not lapse at the close of fiscal year 2025 and shall be used for community supports waiver services in fiscal year 2026.}~~

Subsection 5(b). Restricted Fund and Account Transfers.

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

ITEM 2 To Services for People with Disabilities Perpetual Trust Fund

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From General Fund, One-time	(\$400) <u>(\$54,861,100)</u>
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<u>From General Fund</u>	<u>\$54,861,100</u>
<u>From American Rescue Plan Act Administrative Fund, One-time</u>	<u>\$15,000,000</u>

Schedule of Programs:

Services for People with Disabilities	(\$400) <u>\$15,000,</u>
Perpetual Trust Fund	000

The Legislature intends that the Legislative Fiscal Analyst, when preparing the base budgets for fiscal year 2026, make \$49,861,100 of the above ongoing General Fund appropriation one-time in fiscal year 2026.

ITEM 3 To Medicaid Expansion Fund

<u>From General Fund, One-time</u>	<u>\$59,861,100</u>
<u>From General Fund</u>	<u>(\$59,861,100)</u>

The Legislature intends that the Legislative Fiscal Analyst, when preparing the base budgets for fiscal year 2026, make (\$49,861,100) of the above ongoing General Fund appropriation one-time in fiscal year 2026.

Subsection 5(c). Transfers to Unrestricted Funds.

The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General Fund, Income Tax Fund, or Uniform School Fund, as indicated, from the restricted funds or accounts indicated. Expenditures and outlays from the General Fund, Income Tax Fund, or Uniform School Fund must be authorized by an appropriation.

ITEM ~~3~~4 To Income Tax Fund

From American Rescue Plan Act Administrative Fund, One-time	(\$20) <u>\$5,000,000</u>
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Schedule of Programs:

Income Tax Fund, One-time	(\$20) <u>\$5,000,000</u>
	0

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~~{ Subsection 5(d). Capital Project Funds:~~

~~— The Legislature has reviewed the following capital project funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated:~~

~~ITEM 4 — To Transportation - Transportation Investment Fund of 2005~~

~~- From General Fund, One-time (\$400,000,000) Schedule of Programs: Transportation Investment Fund (\$400,000,000);~~

Section 6. **Effective date.**

(1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

(2) The actions affecting Section 5, FY 2025 Appropriation, take effect on July 1, 2024.