

Senator Jani Iwamoto proposes the following substitute bill:

EXCESS DAMAGES CLAIMS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jani Iwamoto

House Sponsor: V. Lowry Snow

Cosponsors: Howard A. Stephenson

Lyle W. Hillyard

LONG TITLE

General Description:

This bill addresses claims for damages for personal injury in an amount that exceeds a statutory limit.

Highlighted Provisions:

This bill:

- ▶ establishes a process for addressing personal injury claims to the extent that they exceed a statutory limit;
- ▶ provides for Executive Appropriations Committee evaluation of excess damages claims and for a recommendation about whether the claims should be paid;
- ▶ provides for the appointment of a special master to help in the process of evaluating certain excess damages claims;
- ▶ modifies the inflationary adjustment formula for personal injury damages caps; and
- ▶ modifies the permissible uses of the General Fund Budget Reserve Account.

Money Appropriated in this Bill:

None



25 **Other Special Clauses:**

26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **63G-7-604**, as renumbered and amended by Laws of Utah 2008, Chapter 382

30 **63G-7-701**, as last amended by Laws of Utah 2013, Chapter 278

31 **63G-9-201**, as last amended by Laws of Utah 2016, Chapter 350

32 **63G-9-302**, as renumbered and amended by Laws of Utah 2008, Chapter 382

33 **63J-1-312**, as last amended by Laws of Utah 2015, Chapter 214

34 ENACTS:

35 **63G-7-605**, Utah Code Annotated 1953

36 **63G-7-1001**, Utah Code Annotated 1953

37 **63G-7-1002**, Utah Code Annotated 1953

38 **63G-7-1003**, Utah Code Annotated 1953

39 **63G-7-1004**, Utah Code Annotated 1953

40 **63G-7-1005**, Utah Code Annotated 1953



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

43 Section 1. Section **63G-7-604** is amended to read:

44 **63G-7-604. Limitation of judgments against governmental entity or employee --**

45 **Process for adjustment of limits.**

46 (1) (a) Except as provided in Subsection (2) and subject to Subsection (3), if a
47 judgment for damages for personal injury against a governmental entity, or an employee whom
48 a governmental entity has a duty to indemnify, exceeds \$583,900 for one person in any one
49 occurrence, the court shall reduce the judgment to that amount.

50 (b) A court may not award judgment of more than the amount in effect under
51 Subsection (1)(a) for injury or death to one person regardless of whether or not the function
52 giving rise to the injury is characterized as governmental.

53 (c) Except as provided in Subsection (2) and subject to Subsection (3), if a judgment
54 for property damage against a governmental entity, or an employee whom a governmental
55 entity has a duty to indemnify, exceeds \$233,600 in any one occurrence, the court shall reduce

56 the judgment to that amount, regardless of whether or not the function giving rise to the
57 damage is characterized as governmental.

58 (d) Subject to Subsection (3), there is a \$2,000,000 limit to the aggregate amount of
59 individual awards that may be awarded in relation to a single occurrence.

60 (2) The damage limits established in this section do not apply to damages awarded as
61 compensation when a governmental entity has taken or damaged private property for public use
62 without just compensation.

63 (3) The limitations of judgments established in Subsection (1) shall be adjusted
64 according to the methodology set forth in [~~Subsection (4)~~] [Section 63G-7-605](#).

65 [~~(4) (a) Each even-numbered year, the risk manager shall:~~]

66 [~~(i) calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5),
67 Internal Revenue Code;~~]

68 [~~(ii) calculate the increase or decrease in the limitation of judgment amounts
69 established in this section as a percentage equal to the percentage change in the Consumer
70 Price Index since the previous adjustment made by the risk manager or the Legislature; and]~~

71 [~~(iii) after making an increase or decrease under Subsection (4)(a)(ii), round up the
72 limitation of judgment amounts established in Subsection (1) to the nearest \$100.]~~

73 [~~(b) Each even-numbered year, the risk manager shall make rules, which become
74 effective no later than July 1, that establish the new limitation of judgment amounts calculated
75 under Subsection (4)(a):]~~

76 [~~(c) Adjustments made by the risk manager to the limitation of judgment amounts
77 established by this section have prospective effect only from the date the rules establishing the
78 new limitation of judgment take effect and those adjusted limitations of judgment apply only to
79 claims for injuries or losses that occur after the effective date of the rules that establish those
80 new limitations of judgment.]~~

81 Section 2. Section **63G-7-605** is enacted to read:

82 **63G-7-605. Adjustments to limitation of judgment amounts.**

83 (1) As used in this section:

84 (a) "Adjusted consumer price factor" means what the consumer price index, as
85 provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code, would be without the medical
86 care component and the medical services component.

87 (b) "Aggregate limit" means the limit on the aggregate amount of personal injury
88 damages claims from a single occurrence, as provided in Subsection 63G-7-604(1)(d).

89 (c) "Individual limit" means the limit on the amount of a judgment for damages for
90 personal injury, as provided in Subsection 63G-7-604(1)(a).

91 (d) "Latest aggregate limit" means the aggregate limit, as last adjusted by the risk
92 manager under this section.

93 (e) "Latest individual limit" means the individual limit, as last adjusted by the risk
94 manager under this section.

95 (f) "Latest property damage limit" means the property damage limit, as last adjusted by
96 the risk manager under this section.

97 (g) "Medical care component" means the medical care sub-index of the consumer price
98 index, as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

99 (h) "Medical services component" means the medical services sub-index of the
100 consumer price index, as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

101 (i) "Property damage limit" means the limit on the amount of a judgment for property
102 damage, as provided in Subsection 63G-7-604(1)(c).

103 (2) (a) Each even-numbered year, the legislative fiscal analyst shall, subject to
104 Subsection (3):

105 (i) adjust the individual limit by an amount equal to the sum of:

106 (A) 66.5% of the latest individual limit, multiplied by the adjusted consumer price
107 factor;

108 (B) 16.75% of the latest individual limit, multiplied by the medical care component;
109 and

110 (C) 16.75% of the latest individual limit, multiplied by the medical services
111 component;

112 (ii) adjust the aggregate limit by an amount equal to the sum of:

113 (A) 66.5% of the latest aggregate limit, multiplied by the adjusted consumer price
114 factor;

115 (B) 16.75% of the latest aggregate limit, multiplied by the medical care component;
116 and

117 (C) 16.75% of the latest aggregate limit, multiplied by the medical services component;

118 (iii) adjust the property damage limit as a percentage equal to the percentage increase
119 or decrease in the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal
120 Revenue Code; and

121 (iv) no later than June 1, communicate the adjusted limits under Subsections (2)(a)(i),
122 (ii), and (iii) to the risk manager.

123 (b) The legislative fiscal analyst shall round up to the nearest \$100 the individual limit,
124 aggregate limit, and property damage limit adjusted under Subsection (2)(a).

125 (3) The legislative fiscal analyst may not adjust an individual limit or aggregate limit
126 under Subsection (2) if the adjustment results in a decrease in the amount of the limit.

127 (4) (a) Each even-numbered year, the risk manager shall make rules, to become
128 effective no later than July 1 of that year, that establish a new individual limit, aggregate limit,
129 and property damage limit, as adjusted under Subsection (2).

130 (b) An adjustment to the individual limit, aggregate limit, or property damage limit
131 under this section has prospective effect only from the date the rules establishing the new limit
132 take effect.

133 (c) An individual limit, aggregate limit, or property damage limit, as adjusted under
134 this section, applies only to a claim for injury or loss that occurs after the effective date of the
135 rules that establish the adjusted limit.

136 Section 3. Section **63G-7-701** is amended to read:

137 **63G-7-701. Payment of claim or judgment against state -- Presentment for**
138 **payment.**

139 (1) Each claim, as defined by Subsection **63G-7-102**(1), that is approved by the state or
140 any final judgment obtained against the state shall be presented for payment to:

141 (a) the state risk manager; or

142 (b) the office, agency, institution, or other instrumentality involved, if payment by that
143 instrumentality is otherwise permitted by law.

144 (2) If payment of the claim is not authorized by law, the judgment or claim shall be
145 presented to the board of examiners for action as provided in Section **63G-9-301**.

146 (3) If a judgment against the state is reduced by the operation of Section **63G-7-604**,
147 the claimant may submit the excess claim to the [~~board of examiners.~~] Executive
148 Appropriations Committee, as provided in Section **63G-7-1003**.

149 Section 4. Section **63G-7-1001** is enacted to read:

150 **Part 10. Excess Damages Claims**

151 **63G-7-1001. Title.**

152 This part is known as "Excess Damages Claims."

153 Section 5. Section **63G-7-1002** is enacted to read:

154 **63G-7-1002. Definitions.**

155 As used in this part:

156 (1) "Claimant" means an individual who asserts an excess damages claim under this
157 part.

158 (2) "Damages cap" means the amount to which a personal injury claim is or would be
159 reduced because of the operation of Subsection [63G-7-604\(1\)\(a\)](#) or (d).

160 (3) "Damages cap settlement" means a written settlement agreement:

161 (a) between an individual with a personal injury claim that exceeds the damages cap
162 and the governmental entity against which the personal injury claim is asserted; and

163 (b) that provides for the governmental entity to pay the individual an amount equal to
164 the damages cap to settle the personal injury claim.

165 (4) "Excess damages amount" means the amount of a personal injury claim that:

166 (a) exceeds the damages cap; and

167 (b) a governmental entity would be liable to pay except for the operation of Subsection
168 [63G-7-604\(1\)\(a\)](#) or (d).

169 (5) "Excess damages claim" means a claim for an excess damages amount.

170 (6) "Personal injury claim" means a claim for damages for personal injury that is
171 subject to the operation of Subsection [63G-7-604\(1\)\(a\)](#) or (d).

172 (7) "Statement of claim" means a statement detailing an excess damages claim as
173 provided in Section [63G-7-1003](#).

174 (8) "Third-party claim" means a personal injury claim that:

175 (a) arises out of the same underlying facts as the facts that provide the basis for an
176 individual's personal injury claim against a governmental entity; and

177 (b) the individual asserts against a person who the individual claims is also liable, in
178 addition to the governmental entity, for the individual's personal injury claim.

179 Section 6. Section **63G-7-1003** is enacted to read:

180 63G-7-1003. Personal injury claims exceeding damages limit -- Determination by
181 the Executive Appropriations Committee.

182 (1) (a) An individual may seek payment of an excess damages claim by submitting a
183 written statement of claim to the Executive Appropriations Committee after, but no later than
184 180 days after, as applicable:

185 (i) (A) the date of a final, nonappealable judgment in favor of the individual on a
186 personal injury claim in an amount that would have exceeded the damages cap except for the
187 operation of Subsection 63G-7-604(1)(a) or (d); or

188 (B) the date of a damages cap settlement; or

189 (ii) the date that all third-party claims the individual has asserted are resolved by final,
190 nonappealable judgment or settlement, if that date is later than the applicable date under
191 Subsection (1)(a)(i).

192 (b) An excess damages claim may not be denied as untimely under Subsection (1)(a) if:

193 (i) the excess damages claim is based on the same facts as a claim that is submitted:

194 (A) to the Board of Examiners under Chapter 9, Board of Examiners Act; and

195 (B) before the effective date of this part;

196 (ii) the claimant withdraws the claim from the Board of Examiners before the Board of
197 Examiners decides the claim; and

198 (iii) the statement of claim is filed within 30 days after the claimant withdraws the
199 claim from the Board of Examiners.

200 (2) In conjunction with submitting a statement of claim to the Executive
201 Appropriations Committee, the claimant shall provide a copy of the statement of claim to the
202 governmental entity against which the claimant asserted the underlying personal injury claim
203 that forms the basis of the claimant's excess damages claim.

204 (3) A statement of claim shall include:

205 (a) a recitation of the facts and explanation of the evidence supporting the excess
206 damages claim;

207 (b) the excess damages amount;

208 (c) a list and description of each third-party claim the individual has asserted and an
209 explanation of the disposition of the third-party claim, including the amount of any judgment or
210 settlement and the amount actually recovered;

211 (d) (i) a list of all amounts recovered by the claimant from any source as compensation
212 for damages for the claimant's personal injury claim; and

213 (ii) a description of the source of each amount included in the list under Subsection
214 (3)(d)(i);

215 (e) if applicable, a summary of a damages cap settlement;

216 (f) if applicable, the amount of a final judgment awarded to the claimant against the
217 governmental entity with:

218 (i) the amount of the judgment before operation of Subsection [63G-7-604\(1\)\(a\)](#) or (d);
219 and

220 (ii) a description of each element of damages awarded and the amount awarded for
221 each element; and

222 (g) a certification of compliance with the requirement of Subsection (2).

223 (4) A claimant shall submit with a statement of claim under Subsection (1) a copy of:

224 (a) a final judgment in favor of the claimant on the claimant's personal injury claim that
225 forms the basis of the claimant's excess damages claim, together with any findings of fact and
226 conclusions of law entered by the court, if the claimant has recovered a judgment that exceeds
227 the damages cap; or

228 (b) the agreement memorializing the damages cap settlement, if the claimant is
229 asserting an excess damages claim following a damages cap settlement.

230 (5) An excess damages claim may not include an amount recovered by a claimant from
231 any source as compensation for damages for the claimant's personal injury claim.

232 (6) A claimant with a personal injury claim that is subject to the aggregate limit under
233 Subsection [63G-7-604\(1\)\(d\)](#) may not submit a statement of claim under this section before the
234 amount of the personal injury claim has been determined after application of Subsection
235 [63G-7-604\(1\)\(d\)](#).

236 (7) A claimant with a claim pending before the Board of Examiners under Chapter 9,
237 Board of Examiners Act, on the effective date of this part may not submit a statement of claim
238 under this part for an excess damages claim that arises from the same facts as the claim
239 pending before the Board of Examiners, unless the claimant first withdraws the claim pending
240 before the Board of Examiners.

241 Section 7. Section **63G-7-1004** is enacted to read:

242 63G-7-1004. Special master proceedings.

243 (1) The Executive Appropriations Committee may require a claimant's excess damages
244 claim to be submitted to a special master, as provided in this section, to make a
245 recommendation concerning:

246 (a) the governmental entity's liability for the personal injury claim that forms the basis
247 of the excess damages claim; and

248 (b) the amount of the claimant's damages and excess damages claim.

249 (2) (a) If the Executive Appropriations Committee requires a claimant's excess
250 damages claim to be submitted to a special master under Subsection (1), the Executive
251 Appropriations Committee shall select a special master from a list of three individuals
252 submitted by the claimant.

253 (b) An individual on a list submitted by ~~§~~ → a ← ~~§~~ claimant under Subsection (2)(a):

254 (i) shall be:

255 (A) an attorney licensed to practice law in the state, with experience in personal injury
256 cases;

257 (B) an individual who has retired from serving as a judge of a district court or appellate
258 court in the state; or

259 (C) a trained mediator in the state with experience in mediating personal injury cases;

260 and

261 (ii) may not be related to or affiliated with the claimant or any attorney representing the
262 claimant.

263 (c) The selection and hiring of a special master under this Subsection (2) is not subject
264 to Chapter 6a, Utah Procurement Code.

265 (3) In a special master proceeding under this section, the claimant shall pay the fees
266 and costs of a special master selected under Subsection (2).

267 (4) Within 30 days after the appointment of a special master, the claimant shall provide
268 the special master a written statement that includes:

269 (a) (i) a list of the name and last known address of each health care provider that has
270 provided health care services to the claimant at any time during the period beginning five years
271 before the event giving rise to the claimant's personal injury claim and ending on the date that
272 the claimant submits the written statement;

273 (ii) a description of the health care services provided by each health care provider listed
274 in Subsection (4)(a)(i); and

275 (iii) a statement describing and explaining any health care services described under
276 Subsection (4)(a)(ii) that the claimant claims are immaterial to the claimant's personal injury
277 claim;

278 (b) (i) a list of the name and last known address of each health care insurer or other
279 entity to which a health care or other similar benefit claim has been submitted on the claimant's
280 behalf at any time during the period beginning five years before the event giving rise to the
281 claimant's personal injury claim and ending on the date that the claimant submits the written
282 statement;

283 (ii) a description of the health care or other similar benefits claimed under claims
284 submitted to health care insurers or other entities listed under Subsection (4)(b)(i); and

285 (iii) a statement describing and explaining any health care or other similar benefit
286 described under Subsection (4)(b)(ii) that the claimant claims is immaterial to the claimant's
287 personal injury claim;

288 (c) a list of the name and address of each employer that employed the claimant at any
289 time during the period beginning five years before the event giving rise to the claimant's
290 personal injury claim and ending on the date that the claimant submits the written statement, if
291 the claimant's personal injury claim includes a claim for lost wages or diminished earning
292 capacity;

293 (d) a list of the name and address of each state or federal entity holding a statutory lien
294 on any recovery obtained by the claimant through the claimant's personal injury claim; and

295 (e) a statement as to whether the claimant has received any Medicare or Medicaid
296 benefits and, if so, a description of those benefits, including the amount.

297 (5) The claimant shall submit with the statement required under Subsection (4):

298 (a) a copy of the documentary evidence upon which the claimant bases the claimant's
299 excess damages claim; and

300 (b) a signed authorization from the claimant allowing the special master or special
301 master panel to obtain all documents, including any billing statements, relevant to the
302 claimant's excess damages claim from each person listed under Subsections (4)(a)(i), (b)(i), and
303 (c).

- 304 (6) The special master:
305 (a) shall consider evidence relating to the claimant's excess damages claim;
306 (b) may, in addition to information provided under Section 63G-7-1003 and this
307 section, require the claimant to provide documentation or evidence, including medical records,
308 witness statements, or live testimony, that the special master considers relevant to the excess
309 damages claim;
310 (c) may hold a hearing in connection with the special master recommendation
311 regarding the excess damages claim; and
312 (d) after considering the relevant evidence, shall make a recommendation concerning,
313 as directed by the Executive Appropriations Committee:
314 (i) the governmental entity's liability for the personal injury claim that forms the basis
315 of the claimant's excess damages claim;
316 (ii) the amount of the excess damages claim; or
317 (iii) both the governmental entity's liability and the amount of the excess damages
318 claim.
319 (7) (a) Within 30 days after a hearing under Subsection (6)(c) or, if no hearing is held,
320 after the special master's determination not to hold a hearing, the special master shall:
321 (i) prepare a written recommendation, including a brief, informal discussion of the
322 factual and legal basis for the recommendation; and
323 (ii) deliver a copy of the written recommendation to the claimant and the Executive
324 Appropriations Committee.
325 (b) A written recommendation under Subsection (7)(a) may, but need not, contain
326 findings of fact and conclusions of law.
327 Section 8. Section **63G-7-1005** is enacted to read:
328 **63G-7-1005. Executive Appropriations Committee review and evaluation of and**
329 **recommendation concerning excess damages claim.**
330 (1) (a) In reviewing and evaluating an excess damages claim, the Executive
331 Appropriations Committee may require the claimant to provide documentation or evidence,
332 including medical records, witness statements, or live testimony.
333 (b) Subsection (1)(a) applies regardless of whether the excess damages claim was
334 previously submitted to a special master under Section 63G-7-1004.

335 (2) At the conclusion of the Executive Appropriations Committee's review and
336 evaluation of an excess damages claim, including, if applicable, after receiving the
337 recommendation of the special master under Section 63G-7-1004, the Executive
338 Appropriations Committee:
339 (a) shall make a recommendation to the Legislature on the excess damages claim; and
340 (b) may recommend:
341 (i) paying some or all of the excess damages claim, whether in a lump sum or in
342 installments over a period of years; or
343 (ii) denying the excess damages claim.
344 (3) There is a presumption that an amount recommended by the Executive
345 Appropriations Committee for an excess damages claim is the amount that the claimant should
346 be paid.

347 Section 9. Section **63G-9-201** is amended to read:

348 **63G-9-201. Members -- Functions.**

349 (1) As used in this chapter:

350 (a) "Political subdivision" means any county, city, town, school district, community
351 reinvestment agency, special improvement or taxing district, local district, special service
352 district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13,
353 Interlocal Cooperation Act, or other governmental subdivision or public corporation.

354 (b) "State" means the state of Utah, and includes each office, department, division,
355 agency, authority, commission, board, institution, college, university, Children's Justice Center,
356 or other instrumentality of the state.

357 (2) The governor, the state auditor, and the attorney general shall constitute a Board of
358 Examiners, with power to examine all claims against the state or a political subdivision, for the
359 payment of which funds appropriated by the Legislature or derived from any other source are
360 not available.

361 (3) ~~[No]~~ Except as provided in Chapter 7, Part 10, Excess Damages Claims, with
362 respect to an excess damages claim, as defined in Section 63G-7-1002, no claim against the
363 state or a political subdivision, for the payment of which specifically designated funds are
364 required to be appropriated by the Legislature shall be passed upon by the Legislature without
365 having been considered and acted upon by the Board of Examiners.

366 (4) The governor shall be the president, and the state auditor shall be the secretary of
367 the board, and in the absence of either an officer pro tempore may be elected from among the
368 members of the board.

369 Section 10. Section **63G-9-302** is amended to read:

370 **63G-9-302. Form for presentment of claim against the state or political**
371 **subdivision.**

372 [~~Any~~] (1) Except for an excess damages claim, as defined in Section 63G-7-1002, a
373 person having a claim against the state or a political subdivision, for which funds have not been
374 provided [for the payment thereof], or the settlement of which is not otherwise provided for by
375 law, [must] may present the [same] claim to the Board of Examiners, accompanied by a
376 statement showing the facts constituting the claim.

377 (2) (a) A person may not simultaneously pursue a claim under this part and an excess
378 damages claim under Chapter 7, Part 10, Excess Damages Claims, if both claims are based on
379 the same facts.

380 (b) A person who submitted a claim to the Board of Examiners under this part before
381 the effective date of Chapter 7, Part 10, Excess Damages Claims, may withdraw the claim from
382 the Board of Examiners before the Board of Examiners decides the claim and pursue the claim
383 as an excess damages claim, as defined in Section 63G-7-1002, as provided in Chapter 7, Part
384 10, Excess Damages Claims.

385 Section 11. Section **63J-1-312** is amended to read:

386 **63J-1-312. Establishing a General Fund Budget Reserve Account -- Providing for**
387 **deposits and expenditures from the account -- Providing for interest generated by the**
388 **account.**

389 (1) As used in this section:

390 (a) "Education Fund budget deficit" means a situation where appropriations made by
391 the Legislature from the Education Fund for a fiscal year exceed the estimated revenues
392 adopted by the Executive Appropriations Committee of the Legislature for the Education Fund
393 in that fiscal year.

394 (b) "General Fund appropriations" means the sum of the spending authority for a fiscal
395 year that is:

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

397 (ii) identified as coming from the General Fund.

398 (c) "General Fund budget deficit" means a situation where General Fund appropriations
399 made by the Legislature for a fiscal year exceed the estimated revenues adopted by the
400 Executive Appropriations Committee of the Legislature for the General Fund in that fiscal year.

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

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

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

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

415 (ii) If the transfer of 25% of the General Fund revenue surplus to the General Fund
416 Budget Reserve Account would cause the balance in the account to exceed 9% of General Fund
417 appropriations for the fiscal year in which the revenue surplus occurred, the Division of
418 Finance shall transfer only those funds necessary to ensure that the balance in the account
419 equals 9% of General Fund appropriations for the fiscal year in which the General Fund
420 revenue surplus occurred.

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

423 (A) after making the transfer of General Fund revenue surplus to the Medicaid Growth
424 Reduction and Budget Stabilization Account, as provided in Section [63J-1-315](#);

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

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

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

438 (ii) If the transfer under Subsection (3)(b)(i) would cause the balance in the account to
439 exceed 9% of General Fund appropriations for the fiscal year in which the revenue surplus
440 occurred, the Division of Finance shall transfer only those funds necessary to ensure that the
441 balance in the account equals 9% of General Fund appropriations for the fiscal year in which
442 the revenue surplus occurred.

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

445 (A) after making the transfer of General Fund revenue surplus to the Medicaid Growth
446 Reduction and Budget Stabilization Account, as provided in Section [63J-1-315](#);

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

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

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

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

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

461 (b) pay some or all of state settlement agreements approved under Title 63G, Chapter
462 10, State Settlement Agreements Act;

463 (c) pay excess damages claims recommended for payment under Section [63G-7-1005](#);

464 [~~e~~] (d) pay retroactive tax refunds; or

465 [~~d~~] (e) resolve an Education Fund budget deficit.

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