

1                   **UTAH SCIENCE TECHNOLOGY AND RESEARCH**  
2                   **INITIATIVE AMENDMENTS**

3                   2018 GENERAL SESSION

4                   STATE OF UTAH

5                   **Chief Sponsor: Daniel Hemmert**

6                   House Sponsor: R. Curt Webb

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8                   **LONG TITLE**

9                   **General Description:**

10                  This bill modifies provisions of the Utah Science Technology and Research Governing  
11 Authority (USTAR) Act and other related provisions.

12                  **Highlighted Provisions:**

13                  This bill:

- 14                  ▶ defines terms;
- 15                  ▶ modifies provisions that require USTAR to provide ongoing funding for certain  
16 researchers at the University of Utah and Utah State University;
- 17                  ▶ modifies reporting requirements related to researchers that receive state funding;
- 18                  ▶ requires USTAR to transfer ownership of:
  - 19                      • a certain research building located on the campus of the University of Utah to  
20 the university; and
  - 21                      • a certain research building located on the campus of Utah State University to the  
22 university;
- 23                  ▶ creates a new restricted account;
- 24                  ▶ amends provisions related to the Governor's Office of Economic Development's  
25 Technology Commercialization and Innovation Program; and
- 26                  ▶ makes technical changes.

27                  **Money Appropriated in this Bill:**

28                  This bill appropriates in fiscal year 2019:

- 29           ▶ to the Utah Science Technology and Research Governing Authority -- Research
- 30 Capacity Building -- various programs described in this bill:
- 31           • from the General Fund as an ongoing appropriation, (\$6,519,000); and
- 32           • from Beginning Nonlapsing Balances as a one-time appropriation, (\$250,000);
- 33           ▶ to the General Fund:
- 34           • from nonlapsing balances -- Utah Science Technology and Research Governing
- 35 Authority as a one-time appropriation, \$250,000;
- 36           ▶ to the University of Utah -- Education and General:
- 37           • from the General Fund as an ongoing appropriation, \$2,000,000; and
- 38           • from the General Fund as a one-time appropriation, (\$307,300);
- 39           ▶ to Utah State University -- Education and General:
- 40           • from the General Fund as an ongoing appropriation, \$1,000,000; and
- 41           • from the General Fund as a one-time appropriation, \$1,000,000;
- 42           ▶ To USTAR -- Grant Programs -- various programs described in this bill:
- 43           • from the General Fund as an ongoing appropriation, (\$9,220,000); and
- 44           • from the General Fund as a one-time appropriation, \$9,220,000;
- 45           ▶ To Governor's Office of Economic Development -- Business Development --
- 46 Outreach and International Trade:
- 47           • from the General Fund as an ongoing appropriation, (\$2,448,900); and
- 48           • from the General Fund as a one-time appropriation, \$2,448,900; and
- 49           ▶ To Workforce Development Restricted Account:
- 50           • from the General Fund as an ongoing appropriation, \$12,187,900; and
- 51           • from the General Fund as a one-time appropriation, (\$9,111,600).

52 **Other Special Clauses:**

53           None

54 **Utah Code Sections Affected:**

55 AMENDS:

56 **63I-1-253**, as last amended by Laws of Utah 2017, Chapters 166 and 181

57 **63M-2-502**, as enacted by Laws of Utah 2016, Chapter 240

58 **63M-2-602**, as enacted by Laws of Utah 2016, Chapter 240

59 **63M-2-802**, as last amended by Laws of Utah 2017, Chapter 18

60 **63N-3-204**, as renumbered and amended by Laws of Utah 2015, Chapter 283

61 ENACTS:

62 **13-1-14**, Utah Code Annotated 1953

63 **53B-17-1101**, Utah Code Annotated 1953

64 **53B-17-1102**, Utah Code Annotated 1953

65 **53B-18-1501**, Utah Code Annotated 1953

66 **53B-18-1502**, Utah Code Annotated 1953

67 REPEALS:

68 **63M-2-702**, as enacted by Laws of Utah 2016, Chapter 240

69 **63M-2-704**, as enacted by Laws of Utah 2016, Chapter 240

70 **63M-2-705**, as enacted by Laws of Utah 2016, Chapter 240



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

73 Section 1. Section **13-1-14** is enacted to read:

74 **13-1-14. Workforce Development Restricted Account.**

75 (1) There is created a restricted account within the General Fund known as the  
76 Workforce Development Restricted Account.

77 (2) The restricted account shall be administered to provide funding for collaborative  
78 projects that support:

79 (a) economic development in the state;

80 (b) workforce development in the state;

81 (c) the support of scientific and technical innovation and entrepreneurship in the state;

82 and

83 (d) the programs and duties of the governing authority in accordance with this chapter.

84 (3) The state treasurer shall invest the money in the restricted account according to the  
85 procedures and requirements of Title 51, Chapter 7, State Money Management Act, except that  
86 interest and other earnings derived from the restricted account shall be deposited into the  
87 restricted account.

88 (4) The restricted account shall be funded by appropriations made to the account by the  
89 Legislature.

90 (5) Subject to appropriation and direction from the Legislature, account money may be  
91 used in accordance with this part.

92 Section 2. Section **53B-17-1101** is enacted to read:

93 **Part 11. USTAR Researchers**

94 **53B-17-1101. Definitions.**

95 As used in this part:

96 (1) "Researcher" means an individual who:

97 (a) on May 8, 2018, is employed, alone or as part of a research team, by the university;

98 (b) before May 8, 2018, received funding from USTAR for some or all of the  
99 researcher's startup costs or salary;

100 (c) was recruited to become a member of the university's faculty; and

101 (d) after May 8, 2018, receives some or all of the researcher's start up costs or salary  
102 from a legislative appropriation to the university for that purpose.

103 (2) "University" means the University of Utah.

104 (3) "USTAR" means the Utah Science Technology and Research Initiative created in  
105 Section [63M-2-301](#).

106 Section 3. Section **53B-17-1102** is enacted to read:

107 **53B-17-1102. Researcher reporting requirements.**

108 (1) On or before September 1 each year, the university shall submit a written report to  
109 the governor, the Legislature, and the Business, Economic Development, and Labor

110 Appropriations Subcommittee.

111 (2) A report under Subsection (1) shall contain:

112 (a) the amount and sources of funding expended on a researcher's research program,  
113 including:

114 (i) university funds and other state funds;

115 (ii) legislative appropriations;

116 (iii) federal funds;

117 (iv) philanthropic or nonprofit funds; and

118 (v) industry funds;

119 (b) a copy of each:

120 (i) technology disclosure that a researcher files with the university;

121 (ii) license agreement that the university enters into with respect to a technology  
122 developed by a researcher, including any current, expired, or breached license; and

123 (iii) patent filed by the university based on technology developed by a researcher;

124 (c) publications in which a researcher participated, including a citation for each peer  
125 reviewed publication;

126 (d) the number of jobs maintained by a researcher's research program and average  
127 wages paid to those holding those jobs;

128 (e) expenses paid by legislative appropriations for each researcher, including:

129 (i) salary and benefits for a researcher or staff;

130 (ii) operational expenses;

131 (iii) capital equipment expenses; and

132 (iv) travel; and

133 (f) compensation, including salary and benefits, that a researcher received from a  
134 publicly funded source other than legislative appropriations under this part.

135 Section 4. Section **53B-18-1501** is enacted to read:

136 **Part 15. USTAR Researchers**

137 **53B-18-1501. Definitions.**

138 As used in this part:

139 (1) "Researcher" means an individual who:

140 (a) on May 8, 2018, is employed, alone or as part of a research team, by the university;

141 (b) before May 8, 2018, received funding from USTAR for some or all of the  
142 researcher's startup costs or salary;

143 (c) was recruited to become a member of the university's faculty; and

144 (d) after May 8, 2018, receives some or all of the researcher's start up costs or salary  
145 from a legislative appropriation to the university for that purpose.

146 (2) "University" means Utah State University.

147 (3) "USTAR" means the Utah Science Technology and Research Initiative created in  
148 Section [63M-2-301](#).

149 Section 5. Section **53B-18-1502** is enacted to read:

150 **53B-18-1502. Researcher reporting requirements.**

151 (1) On or before September 1 each year, the university shall submit a written report to  
152 the governor, the Legislature, and the Business, Economic Development, and Labor  
153 Appropriations Subcommittee.

154 (2) A report under Subsection (1) shall contain:

155 (a) the amount and sources of funding expended on a researcher's research program,  
156 including:

157 (i) university funds and other state funds;

158 (ii) legislative appropriations;

159 (iii) federal funds;

160 (iv) philanthropic or nonprofit funds; and

161 (v) industry funds;

162 (b) a copy of each:

163 (i) technology disclosure that a researcher files with the university;

- 164 (ii) license agreement that the university enters into with respect to a technology
- 165 developed by a researcher, including any current, expired, or breached license; and
- 166 (iii) patent filed by the university based on technology developed by a researcher;
- 167 (c) publications in which a researcher participated, including a citation for each peer
- 168 reviewed publication;
- 169 (d) the number of jobs maintained by a researcher's research program and average
- 170 wages paid to those holding those jobs;
- 171 (e) expenses paid by legislative appropriations for each researcher, including:
- 172 (i) salary and benefits for a researcher or staff;
- 173 (ii) operational expenses;
- 174 (iii) capital equipment expenses; and
- 175 (iv) travel; and
- 176 (f) compensation, including salary and benefits, that a researcher received from a
- 177 publicly funded source other than legislative appropriations under this part.

178 Section 6. Section **63I-1-253** is amended to read:

179 **63I-1-253. Repeal dates, Titles 53, 53A, and 53B.**

180 The following provisions are repealed on the following dates:

- 181 (1) Subsection [53-10-202\(18\)](#) is repealed July 1, 2018.
- 182 (2) Section [53-10-202.1](#) is repealed July 1, 2018.
- 183 (3) Title 53A, Chapter 1a, Part 6, Public Education Job Enhancement Program, is
- 184 repealed July 1, 2020.
- 185 (4) Section [53A-13-106.5](#) is repealed July 1, 2019.
- 186 (5) Section [53A-15-106](#) is repealed July 1, 2019.
- 187 (6) Sections [53A-15-206](#) and [53A-15-207](#) are repealed January 1, 2023.
- 188 (7) Title 53A, Chapter 31, Part 4, American Indian and Alaskan Native Education State
- 189 Plan Pilot Program, is repealed July 1, 2022.
- 190 (8) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

191 (9) Title 53B, Chapter 18, Part 15, USTAR Researchers, is repealed July 1, 2028.

192 [~~8~~] (10) Section 53B-24-402, Rural residency training program, is repealed July 1,  
193 2020.

194 [~~9~~] (11) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of  
195 money from the Land Exchange Distribution Account to the Geological Survey for test wells,  
196 other hydrologic studies, and air quality monitoring in the West Desert, is repealed July 1,  
197 2020.

198 Section 7. Section 63M-2-502 is amended to read:

199 **63M-2-502. Principal researchers -- Agreement requirements -- Discontinuing**  
200 **funding.**

201 (1) Subject to Subsection (6) and legislative appropriation, the governing authority  
202 shall:

203 (a) provide funding to help a research university honor its commitments to principal  
204 researchers employed by the research university; and

205 (b) give priority to funding provided under Subsection (1)(a).

206 (2) The governing authority shall enter into a written agreement with a higher  
207 education institution that employs a principal researcher:

208 (a) establishing performance standards and expectations for a principal researcher; and

209 (b) requiring the higher education institution to require a principal researcher to comply  
210 with reporting requirements set forth in Section 63M-2-702.

211 (3) (a) A principal researcher may not be hired on or after May 10, 2016 without the  
212 approval of the governing authority and the higher education institution.

213 (b) A higher education institution that enters into or renews an agreement with a  
214 principal researcher on or after May 10, 2016 shall include in the agreement:

215 (i) a specific time period for the commitment of USTAR funding;

216 (ii) the amount of USTAR funding committed to the higher education institution for  
217 the principal researcher, specifying the purpose of the funding;



218 (iii) an acknowledgment that the principal researcher understands and agrees to the  
219 reporting requirements and performance standards under this chapter; and

220 (iv) the governing authority's written approval of the terms of the new or renewed  
221 agreement.

222 (4) The governing authority may not allocate money to a higher education institution  
223 for a principal researcher unless the higher education institution provides the reporting required  
224 under Section 63M-2-702.

225 (5) The governing authority may discontinue allocating money to a higher education  
226 institution for a principal researcher if the governing authority and the president of the higher  
227 education institution employing the principal researcher agree in writing that:

228 (a) the principal researcher:

229 (i) fails to meet the performance standards and expectations established under  
230 Subsection (2)(a);

231 (ii) receives a reasonable opportunity to remedy the failure to meet performance  
232 standards and expectations; and

233 (iii) fails to remedy the failure to meet performance standards and expectations; and

234 (b) under the circumstances, discontinuing USTAR funding to the higher education  
235 institution for the principal researcher is appropriate and justified.

236 (6) Beginning on July 1, 2018, USTAR may not provide funding to help a research  
237 university honor its commitments to principal researchers employed by the research university.

238 Section 8. Section 63M-2-602 is amended to read:

239 **63M-2-602. Lease agreement for a research building -- Requirements for lease**  
240 **agreement.**

241 (1) [~~The~~] Subject to Subsection (3), the governing authority shall enter into a written  
242 lease agreement with a research university to lease to the research university a research  
243 building constructed on the research university's campus.

244 (2) A lease agreement under Subsection (1) shall:

245 (a) require the research university to pay the ongoing operation and maintenance  
246 expenses associated with the research building, including for any infrastructure in the research  
247 building; and

248 (b) subject to the reporting requirements described in Section 63M-2-705, permit the  
249 research university to use or rent space within the research building for research other than  
250 research receiving USTAR support, including research by a private entity.

251 (3) (a) On or before October 1, 2018, the governing authority shall transfer ownership  
252 and title of the:

253 (i) research building known as the James L. Sorenson Molecular Biotechnology  
254 Building, USTAR Building, located at 36 South Wasatch Drive, Salt Lake City, to the  
255 University of Utah; and

256 (ii) research building known as the USTAR BioInnovations Center located at 650 East  
257 1600 North, North Logan, to Utah State University.

258 (b) The provisions of Subsections (1) and (2) are no longer in effect after the transfer of  
259 ownership described in this Subsection (3) occurs.

260 Section 9. Section 63M-2-802 is amended to read:

261 **63M-2-802. USTAR annual report.**

262 (1) (a) On or before October 1 of each year, the governing authority shall submit, in  
263 accordance with Section 68-3-14, an annual written report for the preceding fiscal year to:

264 (i) the Business, Economic Development, and Labor Appropriations Subcommittee;

265 (ii) the Economic Development and Workforce Services Interim Committee;

266 (iii) the Business and Labor Interim Committee; and

267 (iv) the governor.

268 (b) An annual report under Subsection (1)(a) is subject to modification as provided in  
269 Subsection (5) after an audit described in Section 63M-2-803 is released.

270 (2) An annual report described in Subsection (1) shall include:

271 (a) information reported to the governing authority[:~~(i) by an institution of higher~~

272 education under Section ~~63M-2-702~~; (ii)] through the survey described in Section 63M-2-703;

273 [and]

274 [~~(iii) by a research university, under Section 63M-2-705;~~]

275 (b) a clear description of the methodology used to arrive at any information in the  
276 report that is based on an estimate;

277 (c) starting with fiscal year 2017 data as a baseline, data from previous years for  
278 comparison with the annual data reported under this Subsection (2);

279 (d) relevant federal and state statutory references and requirements;

280 (e) contact information for the executive director;

281 (f) other information determined by the governing authority that promotes  
282 accountability and transparency; and

283 (g) the written economic development objectives required under Subsection  
284 63M-2-302(1)(e) and a description of progress or challenges in meeting the objectives.

285 (3) The governing authority shall design the annual report to provide clear, accurate,  
286 and accessible information to the public, the governor, and the Legislature.

287 (4) The governing authority shall:

288 (a) submit the annual report in accordance with Section 68-3-14; and

289 (b) place a link to the annual report and previous annual reports on USTAR's website.

290 (5) Following the completion of an annual audit described in Section 63M-2-803, the  
291 governing authority shall:

292 (a) publicly issue a revised annual report that:

293 (i) addresses the audit;

294 (ii) responds to audit findings; and

295 (iii) incorporates any revisions to the annual report based on audit findings;

296 (b) publish the revised annual report on USTAR's website, with a link to the audit; and

297 (c) submit, in accordance with Section 68-3-14, written notification of any revisions of  
298 the annual report to:

- 299 (i) the Business, Economic Development, and Labor Appropriations Subcommittee;
- 300 (ii) the Economic Development and Workforce Services Interim Committee;
- 301 (iii) the Business and Labor Interim Committee; and
- 302 (iv) the governor.

303 (6) In addition to the annual written report described in this section, the governing  
304 authority shall:

305 (a) provide information and progress reports to a legislative committee upon request;  
306 and

307 (b) on or before [~~October 1, 2019~~] August 1, 2018, and every five years after [~~October~~  
308 ~~1, 2019, include with the annual report described in this section~~] August 1, 2018, provide to the  
309 same entities that receive the annual report described in Subsection (1)(a) a written analysis and  
310 recommendations concerning the usefulness of the information required in the annual report  
311 and USTAR's ongoing effectiveness, including whether:

- 312 (i) the reporting requirements are effective at measuring USTAR's performance;
- 313 (ii) the reporting requirements should be modified; [~~and~~]
- 314 (iii) USTAR is beneficial to the state and should continue[-]; and
- 315 (iv) whether programs in other agencies could provide similar benefits to the state  
316 more effectively or at a lower cost.

317 Section 10. Section **63N-3-204** is amended to read:

318 **63N-3-204. Administration -- Grants and loans.**

319 (1) The office shall administer this part.

320 (2) (a) (i) The office may award Technology Commercialization and Innovation  
321 Program grants or issue loans under this part to an applicant that is:

- 322 (A) an institution of higher education;
- 323 (B) a licensee; or
- 324 (C) a small business.

325 (ii) If loans are issued under Subsection (2)(a)(i), the Division of Finance may set up a

326 fund or account as necessary for the proper accounting of the loans.

327 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
328 office shall make rules for a process to determine whether an institution of higher education  
329 that receives a grant under this part must return the grant proceeds or a portion of the grant  
330 proceeds if the technology that is developed with the grant proceeds is licensed to a licensee  
331 that:

332 (i) does not maintain a manufacturing or service location in the state from which the  
333 licensee or a sublicensee exploits the technology; or

334 (ii) initially maintains a manufacturing or service location in the state from which the  
335 licensee or a sublicensee exploits the technology, but within five years after issuance of the  
336 license the licensee or sublicensee transfers the manufacturing or service location for the  
337 technology to a location out of the state.

338 (c) A repayment by an institution of higher education of grant proceeds or a portion of  
339 the grant proceeds may only come from the proceeds of the license established between the  
340 licensee and the institution of higher education.

341 (d) (i) An applicant that is a licensee or small business that receives a grant under this  
342 part shall return the grant proceeds or a portion of the grant proceeds to the office if the  
343 applicant:

344 (A) does not maintain a manufacturing or service location in the state from which the  
345 applicant exploits the technology; or

346 (B) initially maintains a manufacturing or service location in the state from which the  
347 applicant exploits the technology, but within five years after issuance of the grant, the applicant  
348 transfers the manufacturing or service location for the technology to an out-of-state location.

349 (ii) A repayment by an applicant shall be prorated based on the number of full years the  
350 applicant operated in the state from the date of the awarded grant.

351 (iii) A repayment by a licensee that receives a grant may only come from the proceeds  
352 of the license to that licensee.

353 (3) (a) Funding allocations shall be made by the office with the advice of the board.

354 (b) Each proposal shall receive the best available outside review.

355 (4) (a) In considering each proposal, the office shall weigh technical merit, the level of  
356 matching funds from private and federal sources, and the potential for job creation and  
357 economic development.

358 (b) Proposals or consortia that combine and coordinate related research at two or more  
359 institutions of higher education shall be encouraged.

360 (5) The office shall review the activities and progress of grant recipients on a regular  
361 basis and, as part of the office's annual written report described in Section 63N-1-301, report  
362 on the accomplishments and direction of the Technology Commercialization and Innovation  
363 Program.

364 (6) (a) On or before August 1, 2018, the office shall provide a written analysis and  
365 recommendations concerning the usefulness of the Technology Commercialization and  
366 Innovation Program described in this part, including whether:

367 (i) the program is beneficial to the state and should continue; and

368 (ii) other office programs or programs in other agencies could provide similar benefits  
369 to the state more effectively or at a lower cost.

370 (b) The written analysis and recommendations described in this Subsection (6) shall be  
371 provided to:

372 (i) the Business, Economic Development, and Labor Appropriations Subcommittee;

373 (ii) the Economic Development and Workforce Services Interim Committee;

374 (iii) the Business and Labor Interim Committee; and

375 (iv) the governor.

376 Section 11. **Repealer.**

377 This bill repeals:

378 Section 63M-2-702, **Reporting requirements for higher education institutions.**

379 Section 63M-2-704, **Reporting on licensed or acquired intellectual property.**

380 Section **63M-2-705, Reporting on use of research buildings.**

381 Section 12. **Appropriation.**

382 The following sums of money are appropriated for the fiscal year beginning July 1,  
 383 2018, and ending June 30, 2019. These are additions to amounts previously appropriated for  
 384 fiscal year 2019. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures  
 385 Act, the Legislature appropriates the following sums of money from the funds or accounts  
 386 indicated for the use and support of the government of the state of Utah.

387 ITEM 1

388 To Utah Science Technology and Research Governing Authority --

389 Research Capacity Building

390 From General Fund (\$6,519,000)

391 From Beginning Nonlapsing Balances, One-time (\$250,000)

392 Schedule of Programs:

393 U of U Legacy Salary (\$4,200,000)

394 U of U Legacy Support (\$120,000)

395 U of U Start Up, Carry Over,

396 Commercialization (\$1,369,000)

397 USU Legacy Salary (\$775,000)

398 USU Legacy Support (\$305,000)

399 ITEM 2

400 To General Fund

401 From Nonlapsing Balances - Utah Science Technology and Research

402 Governing Authority, One-time \$250,000

403 Schedule of Programs:

404 General Fund, One-time \$250,000

405 ITEM 3

406 To University of Utah - Education and General

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**Enrolled Copy**

407	<u>From General Fund</u>	<u>\$2,000,000</u>
408	<u>From General Fund, One-time</u>	<u>(\$307,300)</u>
409	<u>Schedule of Programs:</u>	
410	<u>Education and General</u>	<u>\$1,692,700</u>
411	<u>ITEM 4</u>	
412	<u>To Utah State University - Education and General</u>	
413	<u>From General Fund</u>	<u>\$1,000,000</u>
414	<u>From General Fund, One-time</u>	<u>\$1,000,000</u>
415	<u>Schedule of Programs:</u>	
416	<u>Education and General</u>	<u>\$2,000,000</u>
417	<u>ITEM 5</u>	
418	<u>To USTAR - Grant Programs</u>	
419	<u>From General Fund</u>	<u>(\$9,220,000)</u>
420	<u>From General Fund, One-time</u>	<u>\$9,220,000</u>
421	<u>Schedule of Programs:</u>	
422	<u>Energy Research Triangle</u>	<u>\$0</u>
423	<u>Industry Partnership Program</u>	<u>\$0</u>
424	<u>Science and Technology Initiation Grant</u>	<u>\$0</u>
425	<u>Technology Acceleration Program</u>	<u>\$0</u>
426	<u>University Technology Acceleration Grant</u>	<u>\$0</u>
427	<u>ITEM 6</u>	
428	<u>To Governor's Office of Economic Development - Business Development</u>	
429	<u>From General Fund</u>	<u>(\$2,448,900)</u>
430	<u>From General Fund, One-time</u>	<u>\$2,448,900</u>
431	<u>Schedule of Programs:</u>	
432	<u>Outreach and International Trade</u>	<u>\$0</u>
433	<u>ITEM 7</u>	



434	<u>To Utah Science Technology and Research Governing Authority --</u>	
435	<u>Workforce Development Restricted Account</u>	
436	<u>From General Fund</u>	<u>\$12,187,900</u>
437	<u>From General Fund, One-time</u>	<u>(\$9,111,600)</u>
438	<u>Schedule of Programs:</u>	
439	<u>Workforce Development Restricted</u>	
440	<u>Account</u>	<u>\$3,076,300</u>