

1 **REPORTING AND EXPENDITURE OF PUBLIC FUNDS**

2 **AMENDMENTS**

3 2015 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Sophia M. DiCaro**

6 Senate Sponsor: Curtis S. Bramble

7 Cosponsors: Mike Schultz Robert M. Spendlove
8 Kim Coleman V. Lowry Snow

9
10 **LONG TITLE**

11 **General Description:**

12 This bill modifies provisions related to fiscal matters.

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ addresses definition provisions;
- 16 ▶ requires the Governor's Office of Management and Budget to provide certain
- 17 reports;
- 18 ▶ modifies the date the Governor's Office of Management and Budget is to provide
- 19 information to the Office of Legislative Fiscal Analyst;
- 20 ▶ requires written agreement to provide accounting of certain money;
- 21 ▶ provides exemptions;
- 22 ▶ requires state agencies to submit reports to the Governor's Office of Management
- 23 and Budget;
- 24 ▶ repeals provisions related to a nonprofit entity's receipt of money; and
- 25 ▶ makes technical changes.

26 **Money Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **51-2a-102**, as last amended by Laws of Utah 2014, Chapter 341

33 **63J-1-201**, as last amended by Laws of Utah 2014, Chapters 320, 344, and 430

34 ENACTS:

35 **63J-1-220**, Utah Code Annotated 1953

36 REPEALS:

37 **51-2a-204**, as enacted by Laws of Utah 2014, Chapter 341

38 **63J-9-101**, as enacted by Laws of Utah 2014, Chapter 341

39 **63J-9-102**, as enacted by Laws of Utah 2014, Chapter 341

40 **63J-9-201**, as enacted by Laws of Utah 2014, Chapter 341

41 **63J-9-202**, as enacted by Laws of Utah 2014, Chapter 341



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

44 Section 1. Section **51-2a-102** is amended to read:

45 **51-2a-102. Definitions.**

46 As used in this chapter:

47 (1) "Accounting reports" means an audit, a review, a compilation, or a fiscal report.

48 (2) "Audit" means an examination that:

49 ~~[(a) analyzes the accounts of all officers of the entity having responsibility for the care;~~
50 ~~management, collection, or disbursement of money belonging to it or appropriated by law or~~
51 ~~otherwise acquired for its use or benefit;]~~

52 [(b)] (a) is performed in accordance with generally accepted government auditing
53 standards, or for nonprofit corporations described in Subsection (6)(f), in accordance with
54 generally accepted auditing standards; and

55 [(c)] (b) conforms to the uniform classification of accounts established or approved by
56 the state auditor or any other classification of accounts established by any federal government

57 agency.

58 (3) "Audit report" means:

59 (a) the financial statements presented in conformity with generally accepted accounting
60 principles;

61 (b) the auditor's opinion on the financial statements;

62 (c) a statement by the auditor expressing positive assurance of compliance with state
63 fiscal laws identified by the state auditor;

64 (d) a copy of the auditor's letter to management that identifies any material weakness in
65 internal controls discovered by the auditor and other financial issues related to the expenditure
66 of funds received from federal, state, or local governments to be considered by management;
67 and

68 (e) management's response to the specific recommendations.

69 (4) "Compilation" means information presented in the form of financial statements
70 presented in conformity with generally accepted accounting principles that are the
71 representation of management without the accountant undertaking to express any assurances on
72 the statements.

73 (5) "Fiscal report" means providing information detailing revenues and expenditures of
74 all funds using forms provided by the state auditor.

75 (6) "Governing board" means:

76 (a) the governing board of each political subdivision;

77 (b) the governing board of each interlocal organization having the power to tax or to
78 expend public funds;

79 (c) the governing board of any local mental health authority established under the
80 authority of Title 62A, Chapter 15, Substance Abuse and Mental Health Act;

81 (d) the governing board of any substance abuse authority established under the
82 authority of Title 62A, Chapter 15, Substance Abuse and Mental Health Act;

83 (e) the governing board of any area agency established under the authority of Title
84 62A, Chapter 3, Aging and Adult Services;

85 (f) the governing board of any nonprofit corporation that receives[::(i)] at least 50% of
86 its funds from federal, state, and local government entities through contracts; [or]

87 [(ii) an amount from state entities that is equal to or exceeds the amount specified in
88 Subsection 51-2a-201(1) that would require an audit to be made by a competent certified public
89 accountant;]

90 (g) the governing board of any other entity established by a local governmental unit
91 that receives tax exempt status for bonding or taxing purposes; and

92 (h) in municipalities organized under an optional form of municipal government, the
93 municipal legislative body.

94 (7) "Review" means performing inquiry and analytical procedures that provide the
95 accountant with a reasonable basis for expressing limited assurance that there are no material
96 modifications that should be made to the financial statements for them to be in conformity with
97 generally accepted accounting principles.

98 [(8) "State entity" means a department, commission, board, council, agency, institution,
99 officer, corporation, fund, division, office, committee, authority, laboratory, library, unit,
100 bureau, panel, or other administrative unit of the state.]

101 Section 2. Section 63J-1-201 is amended to read:

102 **63J-1-201. Governor's proposed budget to Legislature -- Contents -- Preparation**
103 **-- Appropriations based on current tax laws and not to exceed estimated revenues.**

104 (1) The governor shall deliver, not later than 30 days before the date the Legislature
105 convenes in the annual general session, a confidential draft copy of the governor's proposed
106 budget recommendations to the Office of the Legislative Fiscal Analyst according to the
107 requirements of this section.

108 (2) (a) When submitting a proposed budget, the governor shall, within the first three
109 days of the annual general session of the Legislature, submit to the presiding officer of each
110 house of the Legislature:

111 (i) a proposed budget for the ensuing fiscal year;

112 (ii) a schedule for all of the proposed changes to appropriations in the proposed budget,

113 with each change clearly itemized and classified; and
114 (iii) as applicable, a document showing proposed changes in estimated revenues that
115 are based on changes in state tax laws or rates.

116 (b) The proposed budget shall include:

117 (i) a projection of:

118 (A) estimated revenues by major tax type;
119 (B) 15-year trends for each major tax type;
120 (C) estimated receipts of federal funds; and
121 (D) appropriations for the next fiscal year;

122 (ii) the source of changes to all direct, indirect, and in-kind matching funds for all
123 federal grants or assistance programs included in the budget;

124 (iii) a plan of proposed changes to appropriations and estimated revenues for the next
125 fiscal year that is based upon the current fiscal year state tax laws and rates and considers
126 projected changes in federal grants or assistance programs included in the budget;

127 (iv) an itemized estimate of the proposed changes to appropriations for:

128 (A) the Legislative Department as certified to the governor by the president of the
129 Senate and the speaker of the House;

130 (B) the Executive Department;

131 (C) the Judicial Department as certified to the governor by the state court
132 administrator;

133 (D) changes to salaries payable by the state under the Utah Constitution or under law
134 for lease agreements planned for the next fiscal year; and

135 (E) all other changes to ongoing or one-time appropriations, including dedicated
136 credits, restricted funds, nonlapsing balances, grants, and federal funds;

137 (v) for each line item, the average annual dollar amount of staff funding associated
138 with all positions that were vacant during the last fiscal year;

139 (vi) deficits or anticipated deficits;

140 (vii) the recommendations for each state agency for new full-time employees for the

141 next fiscal year, which shall also be provided to the State Building Board as required by
142 Subsection [63A-5-103\(2\)](#);

143 (viii) a written description and itemized report submitted by a state agency to the
144 Governor's Office of Management and Budget under Section [63J-1-220](#), including:

145 (A) a written description and an itemized report provided at least annually detailing the
146 expenditure of the state money, or the intended expenditure of any state money that has not
147 been spent; and

148 (B) a final written itemized report when all the state money is spent;

149 ~~[(viii)]~~ (ix) any explanation that the governor may desire to make as to the important
150 features of the budget and any suggestion as to methods for the reduction of expenditures or
151 increase of the state's revenue; and

152 ~~[(ix)]~~ (x) information detailing certain fee increases as required by Section [63J-1-504](#).

153 (3) For the purpose of preparing and reporting the proposed budget:

154 (a) The governor shall require the proper state officials, including all public and higher
155 education officials, all heads of executive and administrative departments and state institutions,
156 bureaus, boards, commissions, and agencies expending or supervising the expenditure of the
157 state money, and all institutions applying for state money and appropriations, to provide
158 itemized estimates of changes in revenues and appropriations.

159 (b) The governor may require the persons and entities subject to Subsection (3)(a) to
160 provide other information under these guidelines and at times as the governor may direct,
161 which may include a requirement for program productivity and performance measures, where
162 appropriate, with emphasis on outcome indicators.

163 (c) The governor may require representatives of public and higher education, state
164 departments and institutions, and other institutions or individuals applying for state
165 appropriations to attend budget meetings.

166 (4) (a) The Governor's Office of Management and Budget shall provide to the Office of
167 Legislative Fiscal Analyst, as soon as practicable, but no later than ~~[November 15 of each year]~~
168 30 days before the date the Legislature convenes in the annual general session, data, analysis,

169 or requests used in preparing the governor's budget recommendations, notwithstanding the
170 restrictions imposed on such recommendations by available revenue.

171 (b) The information under Subsection (4)(a) shall include:

172 (i) actual revenues and expenditures for the fiscal year ending the previous June 30;

173 (ii) estimated or authorized revenues and expenditures for the current fiscal year;

174 (iii) requested revenues and expenditures for the next fiscal year;

175 (iv) detailed explanations of any differences between the amounts appropriated by the

176 Legislature in the current fiscal year and the amounts reported under Subsections (4)(b)(ii) and

177 (iii);

178 (v) a statement of agency and program objectives, effectiveness measures, and program

179 size indicators; and

180 (vi) other budgetary information required by the Legislature in statute.

181 (c) The budget information under Subsection (4)(a) shall cover:

182 (i) all items of appropriation, funds, and accounts included in appropriations acts for

183 the current and previous fiscal years; and

184 (ii) any new appropriation, fund, or account items requested for the next fiscal year.

185 (d) The information provided under Subsection (4)(a) may be provided as a shared

186 record under Section [63G-2-206](#) as considered necessary by the Governor's Office of

187 Management and Budget.

188 (5) (a) In submitting the budget for the Department of Public Safety, the governor shall

189 include a separate recommendation in the governor's budget for maintaining a sufficient

190 number of alcohol-related law enforcement officers to maintain the enforcement ratio equal to

191 or below the number specified in Subsection [32B-1-201\(2\)](#).

192 (b) If the governor does not include in the governor's budget an amount sufficient to

193 maintain the number of alcohol-related law enforcement officers described in Subsection

194 (5)(a), the governor shall include a message to the Legislature regarding the governor's reason

195 for not including that amount.

196 (6) (a) The governor may revise all estimates, except those relating to the Legislative

197 Department, the Judicial Department, and those providing for the payment of principal and
198 interest to the state debt and for the salaries and expenditures specified by the Utah
199 Constitution or under the laws of the state.

200 (b) The estimate for the Judicial Department, as certified by the state court
201 administrator, shall also be included in the budget without revision, but the governor may make
202 separate recommendations on the estimate.

203 (7) The total appropriations requested for expenditures authorized by the budget may
204 not exceed the estimated revenues from taxes, fees, and all other sources for the next ensuing
205 fiscal year.

206 (8) If any item of the budget as enacted is held invalid upon any ground, the invalidity
207 does not affect the budget itself or any other item in it.

208 Section 3. Section **63J-1-220** is enacted to read:

209 **63J-1-220. Reporting related to pass through money distributed by state agencies.**

210 (1) As used in this section:

211 (a) "Local government entity" means a county, municipality, school district, local
212 district under Title 17B, Limited Purpose Local Government Entities - Local Districts, special
213 service district under Title 17D, Chapter 1, Special Service District Act, or any other political
214 subdivision of the state.

215 (b) (i) "Pass through funding" means money appropriated by the Legislature to a state
216 agency that is intended to be passed through the state agency to one or more:

217 (A) local government entities;

218 (B) private organizations, including not-for-profit organizations; or

219 (C) persons in the form of a loan or grant.

220 (ii) "Pass through funding" may be:

221 (A) general funds, dedicated credits, or any combination of state funding sources; and

222 (B) ongoing or one-time.

223 (c) "Recipient entity" means a local government entity or private entity, including a
224 nonprofit entity, that receives money by way of pass through funding from a state agency.

225 (d) "State agency" means a department, commission, board, council, agency,
226 institution, officer, corporation, fund, division, office, committee, authority, laboratory, library,
227 unit, bureau, panel, or other administrative unit of the executive branch of the state.

228 (e) (i) "State money" means money that is owned, held, or administered by a state
229 agency and derived from state fees or tax revenues.

230 (ii) "State money" does not include contributions or donations received by a state
231 agency.

232 (2) A state agency may not provide a recipient entity state money through pass through
233 funding unless:

234 (a) the state agency enters into a written agreement with the recipient entity; and

235 (b) the written agreement described in Subsection (2)(a) requires the recipient entity to
236 provide the state agency:

237 (i) a written description and an itemized report at least annually detailing the
238 expenditure of the state money, or the intended expenditure of any state money that has not
239 been spent; and

240 (ii) a final written itemized report when all the state money is spent.

241 (3) A state agency shall provide to the Governor's Office of Management and Budget a
242 copy of a written description or itemized report received by the state agency under Subsection
243 (2).

244 (4) Notwithstanding Subsection (2), a state agency is not required to comply with this
245 section to the extent that the pass through funding is issued:

246 (a) under a competitive award process;

247 (b) in accordance with a formula enacted in statute;

248 (c) in accordance with a state program under parameters in statute or rule that guides
249 the distribution of the pass through funding; or

250 (d) under the authority of the minimum school program, as defined in Subsection
251 [53A-17a-103\(4\)\(e\)](#).

252 Section 4. **Repealer.**

253 This bill repeals:
254 Section **51-2a-204**, **Grants to nonprofit corporations -- Reporting to the state**
255 **auditor.**
256 Section **63J-9-101**, **Title.**
257 Section **63J-9-102**, **Definitions.**
258 Section **63J-9-201**, **Conditions for providing state grant money to a nonprofit**
259 **entity.**
260 Section **63J-9-202**, **Nonprofit entity's return of state money.**