

Representative Sophia M. DiCaro proposes the following substitute bill:

REPORTING AND EXPENDITURE OF PUBLIC FUNDS

AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Sophia M. DiCaro

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies provisions related to fiscal matters.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

None



26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **51-2a-102**, as last amended by Laws of Utah 2014, Chapter 341

31 **63J-1-201**, as last amended by Laws of Utah 2014, Chapters 320, 344, and 430

32 ENACTS:

33 **63J-1-220**, Utah Code Annotated 1953

34 REPEALS:

35 **51-2a-204**, as enacted by Laws of Utah 2014, Chapter 341

36 **63J-9-101**, as enacted by Laws of Utah 2014, Chapter 341

37 **63J-9-102**, as enacted by Laws of Utah 2014, Chapter 341

38 **63J-9-201**, as enacted by Laws of Utah 2014, Chapter 341

39 **63J-9-202**, as enacted by Laws of Utah 2014, Chapter 341



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

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

43 **51-2a-102. Definitions.**

44 As used in this chapter:

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

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

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

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

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

56 (3) "Audit report" means:

57 (a) the financial statements presented in conformity with generally accepted accounting
58 principles;

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

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

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

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

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

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

73 (6) "Governing board" means:

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

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

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

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

81 (e) the governing board of any area agency established under the authority of Title
82 62A, Chapter 3, Aging and Adult Services;

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

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

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

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

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

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

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

100 **63J-1-201. Governor's proposed budget to Legislature -- Contents -- Preparation**
101 **-- Appropriations based on current tax laws and not to exceed estimated revenues.**

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

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

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

110 (ii) a schedule for all of the proposed changes to appropriations in the proposed budget,
111 with each change clearly itemized and classified; and

112 (iii) as applicable, a document showing proposed changes in estimated revenues that
113 are based on changes in state tax laws or rates.

114 (b) The proposed budget shall include:

115 (i) a projection of:

116 (A) estimated revenues by major tax type;

117 (B) 15-year trends for each major tax type;

118 (C) estimated receipts of federal funds; and

- 119 (D) appropriations for the next fiscal year;
- 120 (ii) the source of changes to all direct, indirect, and in-kind matching funds for all
121 federal grants or assistance programs included in the budget;
- 122 (iii) a plan of proposed changes to appropriations and estimated revenues for the next
123 fiscal year that is based upon the current fiscal year state tax laws and rates and considers
124 projected changes in federal grants or assistance programs included in the budget;
- 125 (iv) an itemized estimate of the proposed changes to appropriations for:
- 126 (A) the Legislative Department as certified to the governor by the president of the
127 Senate and the speaker of the House;
- 128 (B) the Executive Department;
- 129 (C) the Judicial Department as certified to the governor by the state court
130 administrator;
- 131 (D) changes to salaries payable by the state under the Utah Constitution or under law
132 for lease agreements planned for the next fiscal year; and
- 133 (E) all other changes to ongoing or one-time appropriations, including dedicated
134 credits, restricted funds, nonlapsing balances, grants, and federal funds;
- 135 (v) for each line item, the average annual dollar amount of staff funding associated
136 with all positions that were vacant during the last fiscal year;
- 137 (vi) deficits or anticipated deficits;
- 138 (vii) the recommendations for each state agency for new full-time employees for the
139 next fiscal year, which shall also be provided to the State Building Board as required by
140 Subsection [63A-5-103\(2\)](#);
- 141 (viii) a written description and itemized report submitted by a state agency to the
142 Governor's Office of Management and Budget under Section [63J-1-220](#) ~~H~~→, ←~~H~~ including:
- 143 (A) a written description and an itemized report provided at least annually detailing the
144 expenditure of the state money, or the intended expenditure of any state money that has not
145 been spent; and
- 146 (B) a final written itemized report when all the state money is spent;
- 147 [~~viii~~] (ix) any explanation that the governor may desire to make as to the important
148 features of the budget and any suggestion as to methods for the reduction of expenditures or
149 increase of the state's revenue; and

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

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

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

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

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

164 (4) (a) The Governor's Office of Management and Budget shall provide to the Office of
165 Legislative Fiscal Analyst, as soon as practicable, but no later than ~~[November 15 of each year]~~
166 30 days before the date the Legislature convenes in the annual general session, data, analysis,
167 or requests used in preparing the governor's budget recommendations, notwithstanding the
168 restrictions imposed on such recommendations by available revenue.

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

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

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

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

173 (iv) detailed explanations of any differences between the amounts appropriated by the
174 Legislature in the current fiscal year and the amounts reported under Subsections (4)(b)(ii) and
175 (iii);

176 (v) a statement of agency and program objectives, effectiveness measures, and program
177 size indicators; and

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

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

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

181 the current and previous fiscal years; and

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

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

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

185 Management and Budget.

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

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

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

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

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

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

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

193 for not including that amount.

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

195 Department, the Judicial Department, and those providing for the payment of principal and

196 interest to the state debt and for the salaries and expenditures specified by the Utah

197 Constitution or under the laws of the state.

198 (b) The estimate for the Judicial Department, as certified by the state court

199 administrator, shall also be included in the budget without revision, but the governor may make

200 separate recommendations on the estimate.

201 (7) The total appropriations requested for expenditures authorized by the budget may

202 not exceed the estimated revenues from taxes, fees, and all other sources for the next ensuing

203 fiscal year.

204 (8) If any item of the budget as enacted is held invalid upon any ground, the invalidity

205 does not affect the budget itself or any other item in it.

206 Section 3. Section [63J-1-220](#) is enacted to read:

207 **[63J-1-220](#). Reporting related to pass through money distributed by state agencies.**

208 (1) As used in this section:

209 (a) "Local government entity" means a county, municipality, school district, local

210 district under Title 17B, Limited Purpose Local Government Entities - Local Districts, special

211 service district under Title 17D, Chapter 1, Special Service District Act, or any other political

212 subdivision of the state.

213 (b) ~~H~~→ (i) ←~~H~~ "Pass through funding" means money appropriated by the Legislature
 213a to a state

214 agency that is intended to be passed through the state agency to one or more:

215 ~~H~~→ [(~~ii~~)] (A) ←~~H~~ local government entities;

216 ~~H~~→ [(~~iii~~)] (B) ←~~H~~ private organizations, including not-for-profit organizations; or

217 ~~H~~→ [(~~iii~~)] (C) ←~~H~~ persons in the form of a loan or grant.

218 ~~H~~→ [(~~e~~)] (ii) ←~~H~~ "Pass through funding" may be:

219 ~~H~~→ [(~~ii~~)] (A) ←~~H~~ general funds, dedicated credits, or any combination of state

219a funding sources; and

220 ~~H~~→ [(~~ii~~)] (B) ←~~H~~ ongoing or one-time.

221 ~~H~~→ [(~~ii~~)] (c) ←~~H~~ "Recipient entity" means a local government entity or private entity,
 221a including a

222 nonprofit entity, that receives money by way of pass through funding from a state agency.

223 ~~H~~→ [(~~e~~)] (d) ←~~H~~ "State agency" means a department, commission, board, council, agency,
 224 institution, officer, corporation, fund, division, office, committee, authority, laboratory, library,
 225 unit, bureau, panel, or other administrative unit of the executive branch of the state.

226 ~~H~~→ [(~~ii~~)] (e) ←~~H~~ (i) "State money" means money that is owned, held, or administered
 226a by a state

227 agency and derived from state fees or tax revenues.

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

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

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

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

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

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

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

242 (4) Notwithstanding Subsection (2), a state agency is not required to comply with this

243 section to the extent that the pass through funding is issued:

244 (a) under a competitive award process;

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

246 (c) in accordance with a state program under parameters in statute or rule that guides

247 the distribution of the pass through funding; or

248 (d) under the authority of the minimum school program, as defined in Subsection

249 [53A-17a-103\(4\)\(e\)](#).

250 Section 4. **Repealer.**

251 This bill repeals:

252 Section [51-2a-204](#), **Grants to nonprofit corporations -- Reporting to the state**

253 **auditor.**

254 Section [63J-9-101](#), **Title.**

255 Section [63J-9-102](#), **Definitions.**

256 Section [63J-9-201](#), **Conditions for providing state grant money to a nonprofit**

257 **entity.**

258 Section [63J-9-202](#), **Nonprofit entity's return of state money.**