

HB0312S01 compared with HB0312

~~deleted text~~ shows text that was in HB0312 but was deleted in HB0312S01.

inserted text shows text that was not in HB0312 but was inserted into HB0312S01.

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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: _____

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;

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- ▶ 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

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

ENACTS:

63J-1-220, Utah Code Annotated 1953

REPEALS:

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

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

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

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

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

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

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

51-2a-102. Definitions.

As used in this chapter:

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

(2) "Audit" means an examination that:

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

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

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

(3) "Audit report" means:

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

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

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

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

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

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

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

(6) "Governing board" means:

(a) the governing board of each political subdivision;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The proposed budget shall include:

(i) a projection of:

(A) estimated revenues by major tax type;

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

(C) estimated receipts of federal funds; and

(D) appropriations for the next fiscal year;

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

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

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

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

(B) the Executive Department;

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

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

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

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

(vi) deficits or anticipated deficits;

(vii) the recommendations for each state agency for new full-time employees for the next fiscal year, which shall also be provided to the State Building Board as required by Subsection 63A-5-103(2);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) all items of appropriation, funds, and accounts included in appropriations acts for the current and previous fiscal years; and

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

(d) The information provided under Subsection (4)(a) may be provided as a shared record under Section 63G-2-206 as considered necessary by the Governor's Office of Management and Budget.

(5) (a) In submitting the budget for the Department of Public Safety, the governor shall include a separate recommendation in the governor's budget for maintaining a sufficient number of alcohol-related law enforcement officers to maintain the enforcement ratio equal to or below the number specified in Subsection 32B-1-201(2).

(b) If the governor does not include in the governor's budget an amount sufficient to maintain the number of alcohol-related law enforcement officers described in Subsection (5)(a), the governor shall include a message to the Legislature regarding the governor's reason for not including that amount.

(6) (a) The governor may revise all estimates, except those relating to the Legislative Department, the Judicial Department, and those providing for the payment of principal and interest to the state debt and for the salaries and expenditures specified by the Utah Constitution or under the laws of the state.

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

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

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

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

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

63J-1-220. Reporting related to ~~{grants}~~pass through money distributed by state agencies.

~~(1) {a} (i) "Grant" means the disbursement by a state agency of state money to a recipient entity.~~

~~—— (ii) "Grant" does not include a contract between a state agency and a recipient entity to purchase goods or services from the recipient entity that is subject to the state procurement process provided in Title 63G, Chapter 6a, Utah Procurement Code.~~

~~—— {b} As used in this section:~~

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

~~{c}{b} "Pass through funding" means money appropriated by the Legislature to a state agency that is intended to be passed through the state agency to one or more:~~

~~(i) local government entities;~~

~~(ii) private organizations, including not-for-profit organizations; or~~

~~(iii) persons in the form of a loan or grant.~~

~~(c) "Pass through funding" may be:~~

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

~~(ii) ongoing or one-time.~~

~~(d) "Recipient entity" means a local government entity or private entity, including a nonprofit entity, that receives money by way of {a grant issued by a state agency when money for the grant is appropriated in a manner that is directed to a specific entity.~~

~~—— {d} pass through funding from a state agency.~~

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

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

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

(2) A state agency may not provide a recipient entity state money through ~~fa grant~~ pass through funding unless:

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

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

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

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

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

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

(a) under a competitive award process;

(b) in accordance with a formula enacted in statute; ~~f or~~

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

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

Section 4. **Repealer.**

This bill repeals:

Section 51-2a-204, Grants to nonprofit corporations -- Reporting to the state auditor.

Section 63J-9-101, Title.

Section 63J-9-102, Definitions.

Section 63J-9-201, Conditions for providing state grant money to a nonprofit entity.

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Section **63J-9-202**, Nonprofit entity's return of state money.

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Legislative Review Note

_____ as of ~~2-10-15~~ 1:10 PM

_____ ~~Office of Legislative Research and General Counsel~~