BUDGETING REVISIONS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Don L. Ipson

House Sponsor: Jefferson Moss

LONG TITLE

General Description:

This bill modifies budgeting provisions relating to dedicated credits, expendable receipts, and grants.

Highlighted Provisions:

This bill:

- provides and amends definitions;
- provides that dedicated credits are subject to appropriations and certain restrictions;
- provides that expendable receipts are not limited by appropriations;
- provides that an agency may expend expendable receipts in accordance with the terms set by the nonstate entity that provides the funds;
- provides expenditure procedures and reporting requirements for an agency that receives expendable receipts revenue greater than the amount included in an appropriations act line item; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63I-2-263, as last amended by Laws of Utah 2018, Chapters 38, 95, 382, and 469

63J-1-102, as last amended by Laws of Utah 2018, Chapter 469

63J-1-105, as enacted by Laws of Utah 2018, Chapter 469

63J-1-206, as last amended by Laws of Utah 2018, Chapters 415 and 469

63J-7-101, as enacted by Laws of Utah 2008, Chapter 195

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

Section 1. Section **63I-2-263** is amended to read:

63I-2-263. Repeal dates, Title 63A to Title 63N.

(1) On July 1, 2020:

(a) Subsection 63A-3-403(5)(a)(i) is repealed; and

(b) in Subsection 63A-3-403(5)(a)(ii), the language that states "appointed on or after May 8, 2018," is repealed.

(2) Title 63C, Chapter 19, Higher Education Strategic Planning Commission is repealed July 1, 2020.

(3) Section 63H-7a-303 is repealed on July 1, 2022.

[~~(4) On July 1, 2019:~~]

[~~(a) in Subsection 63J-1-206(2)(c)(i), the language that states " Subsection(2)(c)(ii) and" is repealed; and~~]

[~~(b) Subsection 63J-1-206(2)(c)(ii) is repealed.~~]

[~~(5)~~] (4) Section 63J-4-708 is repealed January 1, 2023.

[~~(6)~~] (5) Subsection 63N-3-109(2)(f)(i)(B) is repealed July 1, 2020.

[~~(7)~~] (6) Section 63N-3-110 is repealed July 1, 2020.

Section 2. Section **63J-1-102** is amended to read:

63J-1-102. Definitions.

As used in this chapter:

(1) "Agency" means a unit of accounting, typically associated with a department, division, board, council, committee, institution, office, bureau, or other similar administrative unit of state government, that includes line items and programs.

(2) "Budget execution plan" means a proposal submitted by an administrative unit of

state government to the Division of Finance enumerating expected revenues and authorized expenditures within line items and among programs.

(3) "Debt service" means the money that is required annually to cover the repayment of interest and principal on state debt.

(4) (a) "Dedicated credits" means collections by an agency that [~~are deposited directly into an account for expenditure by the agency~~] fund agency operations.

(b) "Dedicated credits" includes[~~ collections from assessments, contributions, donations, fees, fines, licenses, penalties, rental, sales, non-federal grants, or other collections not:~~]:

(i) assessments;

(ii) sales of goods and materials;

(iii) sales of services;

(iv) permits, licenses, and other fees;

(v) fines, penalties, and forfeitures; and

(vi) rental revenue.

[~~(i) otherwise designated by law for deposit into another fund or account; or~~]

[~~(ii) specifically excluded from the definition.~~]

(c) "Dedicated credits" does not [~~mean:~~] include:

(i) expendable receipts;

(ii) revenues otherwise designated by law for deposit into another fund or account;

[~~(i)~~] (iii) federal revenues and the related pass through [~~or the related state match paid by one agency to another~~]; or

[~~(ii)~~] (iv) revenues that are not deposited in governmental funds[~~; or~~].

[~~(iii) revenues from any contracts.~~]

(5) (a) "Expendable receipts" means collections by an agency for expenditures that are limited by a nonstate entity that provides the funds.

(b) "Expendable receipts" includes:

(i) grants;

(ii) state matches for federal revenues paid by a nonstate entity; and

(iii) rebates, including pharmacy rebates, that have similar restrictions on expenditures as the original program.

(c) "Expendable receipts" does not include:

(i) dedicated credits;

(ii) revenues otherwise designated by law for deposit into another fund or account;

(iii) federal revenues and the related pass through; or

(iv) revenues that are not deposited into governmental funds.

[~~(5)~~] (6) "Federal revenues" means collections by an agency from a federal source that are deposited into an account for expenditure by the agency.

[~~(6)~~] (7) "Free revenue" includes:

(a) collections that are required by law to be deposited in:

(i) the General Fund;

(ii) the Education Fund;

(iii) the Uniform School Fund; or

(iv) the Transportation Fund;

(b) collections that are not otherwise designated by law;

(c) collections that are not externally restricted; and

(d) collections that are not included in an approved [~~work program.~~] budget execution plan.

(8) "Grant" means the same as that term is defined in Section 63J-7-101.

[~~(7)~~] (9) (a) "Item of appropriation" means an authorization of expenditure contained in legislation that appropriates funds and includes the following:

(i) the name of the agency and line item to which authorization is granted; and

(ii) sources of finance from which authorization is granted and associated amounts authorized.

(b) "Item of appropriation" also includes:

(i) a schedule of programs;

(ii) intent language;

(iii) approved full-time equivalent employment;

(iv) authorized capital outlay; and

(v) other conditions of appropriation.

[~~(8)~~] (10) "Line item" means a unit of accounting, typically representing an administrative unit of state government within an agency, that contains one or more programs.

[~~(9)~~] (11) "Major revenue types" means:

(a) free revenue;

(b) federal revenue;

[~~(b)~~] (c) restricted revenue; [~~and~~]

[~~(c)~~] (d) dedicated credits[~~.~~]; and

(e) expendable receipts.

[~~(10)~~] (12) "Program" means a unit of accounting included on a schedule of programs within a line item used to track budget authorizations, collections, and expenditures on specific purposes or functions.

[~~(11)~~] (13) "Restricted revenue" means collections that are:

(a) deposited, by law, into a separate fund, subfund, or account; and

(b) designated for a specific program or purpose.

[~~(12)~~] (14) "Schedule of programs" means a list of programs and associated authorization amounts within an item of appropriation.

Section 3. Section **63J-1-105** is amended to read:

63J-1-105. Revenue types -- Disposition of dedicated credits and expendable receipts.

(1) (a) Dedicated credits are subject to appropriations and the restrictions in this chapter.

(b) An agency may expend dedicated credits for any purpose within the program or line item.

(2) Except as provided in Subsections (3) and (4), an agency may not expend dedicated

credits in excess of the amount appropriated to a line item as dedicated credits by the Legislature.

(3) Each agency that receives dedicated credits revenue greater than the amount appropriated to a line item by the Legislature in the annual appropriations acts may expend the excess up to 25% of the amount appropriated if the expenditure is included in a revised budget execution plan [~~approved~~] submitted as provided in Section 63J-1-209.

(4) Notwithstanding the requirements of Subsection (3), when an agency's dedicated credits revenue represents over 90% of the budget of the line item for which the dedicated credits are collected, the agency may expend 100% of the excess of the amount appropriated if the [~~expenditure is authorized by an amended~~] agency submits a revised budget execution plan [~~approved~~] as provided in Subsection (3) and Section 63J-1-209.

(5) An expenditure of dedicated credits in excess of amounts appropriated to a line item as dedicated credits by the Legislature may not be used to permanently increase personnel within the agency unless:

(a) the increase is approved by the Legislature; or

(b) the money is deposited as a dedicated credit in a line item covering tuition or federal vocational funds at an institution of higher education.

(6) (a) All excess dedicated credits not received or expended in compliance with Subsection (3), (4), or (7) lapse to the General Fund or other appropriate fund as free or restricted revenue at the end of the fiscal year.

(b) The Division of Finance shall determine the appropriate fund into which the dedicated credits lapse.

(7) (a) When an agency has a line item that is funded by more than one major revenue type, one of which is dedicated credits, the agency shall completely expend authorized dedicated credits within the current fiscal year and allocate unused spending authorization among other funding sources based upon a proration of the amounts appropriated from each of those major revenue types not attributable to dedicated credits, unless the Legislature has designated a portion of the dedicated credits as nonlapsing, in which case the agency shall

completely expend within the current fiscal year authorized dedicated credits minus the portion of dedicated credits designated as nonlapsing, and allocate unused spending authorization among the other funding sources based upon a proration of the amounts appropriated from each of those major revenue types not attributable to dedicated credits.

(b) Nothing in Subsection (7)(a) shall be construed to allow an agency to receive and expend dedicated credits in excess of legislative appropriations to a line item without complying with Subsection (3) or (4).

(c) Each agency that receives dedicated credits shall report, to the Division of Finance, any balances remaining in those funds at the conclusion of each fiscal year.

(8) Each agency shall include in its annual budget request estimates of dedicated credits revenue that is identified by, collected for, or set by the agency.

(9) Each agency may expend expendable receipts in accordance with the terms set by a nonstate entity that provides the funds.

(10) (a) Expendable receipts are not limited by appropriations.

(b) Each agency that receives expendable receipts revenue greater than the amount included for a line item by the Legislature in the annual appropriations acts may expend the excess if the expenditure is included in a revised budget execution plan submitted as provided in Section 63J-1-209.

(c) If an agency receives excess expendable receipts revenue that is more than 25% greater than the amount included for a line item by the Legislature in the annual appropriations acts, the agency shall report the excess amount, the source of the expendable receipts, and the purpose for which the expendable receipts will be expended to the Governor's Office of Management and Budget, the legislative fiscal analyst, and the Executive Appropriations Committee within 60 days of submitting a revised budget execution plan as provided in Section 63J-1-209.

Section 4. Section **63J-1-206** is amended to read:

63J-1-206. Appropriations governed by chapter -- Restrictions on expenditures -- Transfer of funds -- Exclusion.

(1) (a) Except as provided in [~~Subsection (2)(b), (3)(e),~~] Subsections (1)(b) and (2)(e), or where expressly exempted in the appropriating act:

(i) all money appropriated by the Legislature is appropriated upon the terms and conditions set forth in this chapter; and

(ii) any department, agency, or institution that accepts money appropriated by the Legislature does so subject to the requirements of this chapter.

(b) This section does not apply to:

(i) the Legislature and its committees; and

(ii) the Investigation Account of the Water Resources Construction Fund, which is governed by Section 73-10-8.

(2) (a) Each item of appropriation is to be expended subject to any schedule of programs and any restriction attached to the item of appropriation, as designated by the Legislature.

(b) Each schedule of programs or restriction attached to an appropriation item:

(i) is a restriction or limitation upon the expenditure of the respective appropriation made;

(ii) does not itself appropriate any money; and

(iii) is not itself an item of appropriation.

(c) (i) Except as provided in Subsection (2)(c)(ii) [~~and Subsection (2)(c)(iii)~~], an appropriation or any surplus of any appropriation may not be diverted from any department, agency, institution, division, or line item to any other department, agency, institution, division, or line item.

[~~(ii) Until July 1, 2019, the Department of Workforce Services may transfer or divert money to another department, agency, institution, division, or line item only for the purposes of law enforcement, adjudication, corrections, and providing and addressing services for homeless individuals and families.~~]

[~~(iii)~~] (ii) The state superintendent may transfer money appropriated for the Minimum School Program between line items in accordance with Section 53F-2-205.

(d) The money appropriated subject to a schedule of programs or restriction may be used only for the purposes authorized.

(e) In order for a department, agency, or institution to transfer money appropriated to it from one program to another program within a line item, the department, agency, or institution shall revise its budget execution plan as provided in Section 63J-1-209.

(f) (i) The procedures for transferring money between programs within a line item as provided by Subsection (2)(e) do not apply to money appropriated to the State Board of Education for the Minimum School Program or capital outlay programs created in Title 53F, Chapter 3, State Funding -- Capital Outlay Programs.

(ii) The state superintendent may transfer money appropriated for the programs specified in Subsection (2)(f)(i) only as provided by Section 53F-2-205.

Section 5. Section **63J-7-101** is amended to read:

63J-7-101. Definitions.

(1) As used in this chapter:

(a) (i) "Agency" means a department, division, committee, commission, council, court, or other administrative subunit of the state.

(ii) "Agency" includes executive branch entities and judicial branch entities.

(iii) "Agency" does not mean higher education institutions or political subdivisions.

(b) (i) "Grant" means cash or other money donated to an agency [~~by a grantor~~].

(ii) "Grant" includes:

(A) a reauthorization of an existing grant[~~.~~]; and

(B) a donation, regardless of whether it is subject to a formal grant agreement.

(iii) "Grant" does not mean:

(A) money appropriated to an agency by the Legislature;

(B) money received from the United States government;

(C) money legally required to be paid to the state; [~~or~~]

(D) money legally required to be repaid by the state[~~.~~]; or

(E) revenues otherwise designated by law for deposit into another fund or account.

(c) "Grantor" means the individual, group of individuals, foundation, corporation, or public or private organization making the grant.

(d) "Grant reauthorization" means the formal submission from an agency to the grantor applying for reauthorization or seeking reauthorization of a grant.

(e) "Grant summary" means a document detailing:

(i) the amount of money that is being requested or is available to be received by the agency from a grant;

(ii) the duration of the grant and provisions for its reauthorization or extension, if any;

(iii) the name of the grantor;

(iv) the purpose of the grant, including, in detail, any programs, resources, and positions required to be funded by the grant;

(v) any requirements that the agency must meet as a condition to receive or participate in the grant; and

(vi) the amount of state money, if any, that will be required in order to obtain the grant.

(f) "New state money" means money, whether specifically appropriated by the Legislature or not, that the grantor requires Utah to expend as a condition for receiving the grant.

(g) "State" means the state of Utah and all of its agencies, and any administrative subunits of those agencies.

(2) When this chapter describes an employee as a "permanent full-time employee" or a "permanent part-time employee," it is not intended to, and may not be construed to, affect the employee's status as an at-will employee.

Section 6. **Effective date.**

This bill takes effect on July 1, 2019.