

1 **DEPARTMENT OF HUMAN SERVICES BUDGETARY**

2 **PROCEDURES AMENDMENTS**

3 2021 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Norman K. Thurston**

6 Senate Sponsor: Daniel W. Thatcher

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies provisions relating to the funding of Department of Human Services
11 programs.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ allows the executive director of the Department of Human Services to:
15 • designate up to three priority programs within the department to receive funds

16 from other department programs that the department determines have
17 unexpended funds from the fiscal year in which the funds were appropriated;
18 and

- 19 • reallocate those unexpended funds to one or more of the designated priority
20 programs;

21 ▶ prohibits the department from allocating unexpended funds for personnel costs,
22 with an exception; and

23 ▶ requires the department to provide an annual report on the department's designation
24 of priority programs to receive unexpended funds and on the department's use of
25 reallocated unexpended funds.

26 **Money Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **62A-1-111**, as last amended by Laws of Utah 2020, Chapter 303

33 **63J-1-206**, as last amended by Laws of Utah 2020, Chapters 152, 231, 402 and last
34 amended by Coordination Clause, Laws of Utah 2020, Chapter 231

35 ENACTS:

36 **62A-1-111.6**, Utah Code Annotated 1953



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

39 Section 1. Section **62A-1-111** is amended to read:

40 **62A-1-111. Department authority.**

41 The department may, in addition to all other authority and responsibility granted to the
42 department by law:

43 (1) adopt rules, not inconsistent with law, as the department may consider necessary or
44 desirable for providing social services to the people of this state;

45 (2) establish and manage client trust accounts in the department's institutions and
46 community programs, at the request of the client or the client's legal guardian or representative,
47 or in accordance with federal law;

48 (3) purchase, as authorized or required by law, services that the department is
49 responsible to provide for legally eligible persons;

50 (4) conduct adjudicative proceedings for clients and providers in accordance with the
51 procedures of Title 63G, Chapter 4, Administrative Procedures Act;

52 (5) establish eligibility standards for its programs, not inconsistent with state or federal
53 law or regulations;

54 (6) take necessary steps, including legal action, to recover money or the monetary value
55 of services provided to a recipient who was not eligible;

56 (7) set and collect fees for the department's services;

57 (8) license agencies, facilities, and programs, except as otherwise allowed, prohibited,

58 or limited by law;

59 (9) acquire, manage, and dispose of any real or personal property needed or owned by
60 the department, not inconsistent with state law;

61 (10) receive gifts, grants, devises, and donations; gifts, grants, devises, donations, or
62 the proceeds thereof, may be credited to the program designated by the donor, and may be used
63 for the purposes requested by the donor, as long as the request conforms to state and federal
64 policy; all donated funds shall be considered private, nonlapsing funds and may be invested
65 under guidelines established by the state treasurer;

66 (11) accept and employ volunteer labor or services; the department is authorized to
67 reimburse volunteers for necessary expenses, when the department considers that
68 reimbursement to be appropriate;

69 (12) carry out the responsibility assigned in the workforce services plan by the State
70 Workforce Development Board;

71 (13) carry out the responsibility assigned by Section [35A-8-602](#) with respect to
72 coordination of services for the homeless;

73 (14) carry out the responsibility assigned by Section [62A-5a-105](#) with respect to
74 coordination of services for students with a disability;

75 (15) provide training and educational opportunities for the department's staff;

76 (16) collect child support payments and any other money due to the department;

77 (17) apply the provisions of Title 78B, Chapter 12, Utah Child Support Act, to parents
78 whose child lives out of the home in a department licensed or certified setting;

79 (18) establish policy and procedures, within appropriations authorized by the
80 Legislature, in cases where the department is given custody of a minor by the juvenile court
81 under Section [78A-6-117](#) or ordered to prepare an attainment plan for a minor found not
82 competent to proceed under Section [78A-6-1301](#); any policy and procedures shall include:

83 (a) designation of interagency teams for each juvenile court district in the state;

84 (b) delineation of assessment criteria and procedures;

85 (c) minimum requirements, and timeframes, for the development and implementation

86 of a collaborative service plan for each minor placed in department custody; and
87 (d) provisions for submittal of the plan and periodic progress reports to the court;
88 (19) carry out the responsibilities assigned to the department by statute;
89 (20) examine and audit the expenditures of any public funds provided to local
90 substance abuse authorities, local mental health authorities, local area agencies on aging, and
91 any person, agency, or organization that contracts with or receives funds from those authorities
92 or agencies. Those local authorities, area agencies, and any person or entity that contracts with
93 or receives funds from those authorities or area agencies, shall provide the department with any
94 information the department considers necessary. The department is further authorized to issue
95 directives resulting from any examination or audit to local authorities, area agencies, and
96 persons or entities that contract with or receive funds from those authorities with regard to any
97 public funds. If the department determines that it is necessary to withhold funds from a local
98 mental health authority or local substance abuse authority based on failure to comply with state
99 or federal law, policy, or contract provisions, it may take steps necessary to ensure continuity of
100 services. For purposes of this Subsection (20) "public funds" means the same as that term is
101 defined in Section [62A-15-102](#);
102 (21) pursuant to Subsection [62A-2-106\(1\)\(d\)](#), accredit one or more agencies and
103 persons to provide intercountry adoption services;
104 (22) within appropriations authorized by the Legislature, promote and develop a
105 system of care and stabilization services:
106 (a) in compliance with Title 63G, Chapter 6a, Utah Procurement Code; and
107 (b) that encompasses the department, department contractors, and the divisions,
108 offices, or institutions within the department, to:
109 (i) navigate services, funding resources, and relationships to the benefit of the children
110 and families whom the department serves;
111 (ii) centralize department operations, including procurement and contracting;
112 (iii) develop policies that govern business operations and that facilitate a system of care
113 approach to service delivery;

114 (iv) allocate resources that may be used for the children and families served by the
115 department or the divisions, offices, or institutions within the department, subject to the
116 restrictions in Section [63J-1-206](#);

117 (v) create performance-based measures for the provision of services; and

118 (vi) centralize other business operations, including data matching and sharing among
119 the department's divisions, offices, and institutions; [~~and~~]

120 (23) ensure that any training or certification required of a public official or public
121 employee, as those terms are defined in Section [63G-22-102](#), complies with Title 63G, Chapter
122 22, State Training and Certification Requirements, if the training or certification is required:

123 (a) under this title;

124 (b) by the department; or

125 (c) by an agency or division within the department[~~;~~]; and

126 (24) reallocate unexpended funds as provided in Section [62A-1-111.6](#).

127 Section 2. Section **62A-1-111.6** is enacted to read:

128 **62A-1-111.6. Reallocating unexpended money to designated priority programs --**
129 **Reporting -- Limitation.**

130 (1) (a) Beginning fiscal year 2022, the department may:

131 (i) designate up to three existing programs, as defined in Section [63J-1-102](#), within the
132 department as priority programs to receive unrestricted General Fund money that is reallocated
133 under Subsection (1)(a)(ii); and

134 (ii) reallocate unexpended, unrestricted General Fund money from a program in one
135 line item within the department to one or more of the designated priority programs in another
136 line item within the department.

137 (b) The department shall make any reallocation of unexpended money under
138 Subsection (1)(a) before the end of the fiscal year in which the money was appropriated.

139 (c) The department may not make a reallocation under this section if the reallocation:

140 (i) results in the creation of a new program, benefit, or service;

141 (ii) results in a significant expansion of:

- 142 (A) a program; or
- 143 (B) the scope or type of benefit or service already provided; or
- 144 (iii) provides funding for a budget request that the Legislature previously declined.
- 145 (2) On or before December 1 of each year, the department shall report to the Social
- 146 Services Appropriations Subcommittee:
- 147 (a) on the department's designation of priority programs to receive the unexpended
- 148 money under Subsection (1)(a); and
- 149 (b) if applicable, on the department's use, during the prior fiscal year, of unexpended
- 150 money reallocated under Subsection (1).
- 151 (3) Except in accordance with pay plans developed and adopted as described in
- 152 Subsection 67-19-12(4)(a), the department may not allocate unexpended money under
- 153 Subsection (1) for a priority program's personnel costs.

154 Section 3. Section **63J-1-206** is amended to read:

155 **63J-1-206. Appropriations governed by chapter -- Restrictions on expenditures --**
156 **Transfer of funds -- Exclusion.**

157 (1) (a) Except as provided in Subsections (1)(b) and (2)(e), or where expressly
158 exempted in the appropriating act:

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

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

163 (b) This section does not apply to:

164 (i) the Legislature and its committees; and

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

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

- 170 (b) Each schedule of programs or restriction attached to an appropriation item:
171 (i) is a restriction or limitation upon the expenditure of the respective appropriation
172 made;
173 (ii) does not itself appropriate any money; and
174 (iii) is not itself an item of appropriation.
- 175 (c) (i) An appropriation or any surplus of any appropriation may not be diverted from
176 any department, agency, institution, division, or line item to any other department, agency,
177 institution, division, or line item.
- 178 (ii) If the money appropriated to an agency to pay lease payments under the program
179 established in Section [63A-5b-703](#) exceeds the amount required for the agency's lease
180 payments to the Division of Facilities Construction and Management, the agency may:
- 181 (A) transfer money from the lease payments line item to other line items within the
182 agency; and
- 183 (B) retain and use the excess money for other purposes.
- 184 (iii) The executive director of the Department of Human Services may transfer
185 unrestricted General Fund money appropriated to the department between line items within the
186 department in accordance with Section [62A-1-111.6](#).
- 187 (d) The money appropriated subject to a schedule of programs or restriction may be
188 used only for the purposes authorized.
- 189 (e) In order for a department, agency, or institution to transfer money appropriated to it
190 from one program to another program [~~within a line item~~], the department, agency, or
191 institution shall revise its budget execution plan as provided in Section [63J-1-209](#).
- 192 (f) (i) The procedures for transferring money between programs within a line item as
193 provided by Subsection (2)(e) do not apply to money appropriated to the State Board of
194 Education for the Minimum School Program or capital outlay programs created in Title 53F,
195 Chapter 3, State Funding -- Capital Outlay Programs.
- 196 (ii) The state superintendent may transfer money appropriated for the programs
197 specified in Subsection (2)(f)(i) only as provided by Section [53F-2-205](#).

198 (3) Notwithstanding Subsection (2)(c)(i):

199 (a) the state superintendent may transfer money appropriated for the Minimum School
200 Program between line items in accordance with Section [53F-2-205](#);

201 (b) the Department of Administrative Services may transfer money appropriated for the
202 purpose of paying the costs of paid employee postpartum recovery leave under Section
203 [67-19-14.7](#) to another department, agency, institution, or division; and

204 (c) the Department of Administrative Services may transfer or divert money to another
205 department, agency, institution, or division only for the purposes of coordinating and providing
206 a state response to the coronavirus.