

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

7

LONG TITLE

8 **Committee Note:**

9 The Government Operations Interim Committee recommended this bill.

10 Legislative Vote: 12 voting for 0 voting against 4 absent

11 **General Description:**

12 This bill modifies provisions relating to the funding of Department of Human Services
13 programs.

14 **Highlighted Provisions:**

15 This bill:

- 16 ▶ allows the executive director of the Department of Human Services to:
 - 17 • designate up to three priority programs within the department to receive funds
 - 18 from other department programs that the department determines have
 - 19 unexpended funds from the fiscal year in which the funds were appropriated;
 - 20 and
 - 21 • reallocate those unexpended funds to one or more of the designated priority
 - 22 programs;

23

24

- 25 ▶ prohibits the department from allocating unexpended funds for personnel costs,
- 26 with an exception; and
- 27 ▶ requires the department to provide an annual report on the department's designation
- of priority programs to receive unexpended funds and on the department's use of



28 reallocated unexpended funds.

29 **Money Appropriated in this Bill:**

30 None

31 **Other Special Clauses:**

32 None

33 **Utah Code Sections Affected:**

34 AMENDS:

35 **62A-1-111**, as last amended by Laws of Utah 2020, Chapter 303

36 **63J-1-206**, as last amended by Laws of Utah 2020, Chapters 152, 231, 402 and last
37 amended by Coordination Clause, Laws of Utah 2020, Chapter 231

38 ENACTS:

39 **62A-1-111.6**, Utah Code Annotated 1953



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

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

43 **62A-1-111. Department authority.**

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

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

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

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

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

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

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

- 59 (7) set and collect fees for the department's services;
- 60 (8) license agencies, facilities, and programs, except as otherwise allowed, prohibited,
61 or limited by law;
- 62 (9) acquire, manage, and dispose of any real or personal property needed or owned by
63 the department, not inconsistent with state law;
- 64 (10) receive gifts, grants, devises, and donations; gifts, grants, devises, donations, or
65 the proceeds thereof, may be credited to the program designated by the donor, and may be used
66 for the purposes requested by the donor, as long as the request conforms to state and federal
67 policy; all donated funds shall be considered private, nonlapsing funds and may be invested
68 under guidelines established by the state treasurer;
- 69 (11) accept and employ volunteer labor or services; the department is authorized to
70 reimburse volunteers for necessary expenses, when the department considers that
71 reimbursement to be appropriate;
- 72 (12) carry out the responsibility assigned in the workforce services plan by the State
73 Workforce Development Board;
- 74 (13) carry out the responsibility assigned by Section [35A-8-602](#) with respect to
75 coordination of services for the homeless;
- 76 (14) carry out the responsibility assigned by Section [62A-5a-105](#) with respect to
77 coordination of services for students with a disability;
- 78 (15) provide training and educational opportunities for the department's staff;
- 79 (16) collect child support payments and any other money due to the department;
- 80 (17) apply the provisions of Title 78B, Chapter 12, Utah Child Support Act, to parents
81 whose child lives out of the home in a department licensed or certified setting;
- 82 (18) establish policy and procedures, within appropriations authorized by the
83 Legislature, in cases where the department is given custody of a minor by the juvenile court
84 under Section [78A-6-117](#) or ordered to prepare an attainment plan for a minor found not
85 competent to proceed under Section [78A-6-1301](#); any policy and procedures shall include:
- 86 (a) designation of interagency teams for each juvenile court district in the state;
- 87 (b) delineation of assessment criteria and procedures;
- 88 (c) minimum requirements, and timeframes, for the development and implementation
89 of a collaborative service plan for each minor placed in department custody; and

90 (d) provisions for submittal of the plan and periodic progress reports to the court;
91 (19) carry out the responsibilities assigned to the department by statute;
92 (20) examine and audit the expenditures of any public funds provided to local
93 substance abuse authorities, local mental health authorities, local area agencies on aging, and
94 any person, agency, or organization that contracts with or receives funds from those authorities
95 or agencies. Those local authorities, area agencies, and any person or entity that contracts with
96 or receives funds from those authorities or area agencies, shall provide the department with any
97 information the department considers necessary. The department is further authorized to issue
98 directives resulting from any examination or audit to local authorities, area agencies, and
99 persons or entities that contract with or receive funds from those authorities with regard to any
100 public funds. If the department determines that it is necessary to withhold funds from a local
101 mental health authority or local substance abuse authority based on failure to comply with state
102 or federal law, policy, or contract provisions, it may take steps necessary to ensure continuity of
103 services. For purposes of this Subsection (20) "public funds" means the same as that term is
104 defined in Section [62A-15-102](#);

105 (21) pursuant to Subsection [62A-2-106\(1\)\(d\)](#), accredit one or more agencies and
106 persons to provide intercountry adoption services;

107 (22) within appropriations authorized by the Legislature, promote and develop a
108 system of care and stabilization services:

109 (a) in compliance with Title 63G, Chapter 6a, Utah Procurement Code; and
110 (b) that encompasses the department, department contractors, and the divisions,
111 offices, or institutions within the department, to:

112 (i) navigate services, funding resources, and relationships to the benefit of the children
113 and families whom the department serves;

114 (ii) centralize department operations, including procurement and contracting;

115 (iii) develop policies that govern business operations and that facilitate a system of care
116 approach to service delivery;

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

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

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

123 (23) ensure that any training or certification required of a public official or public
 124 employee, as those terms are defined in Section [63G-22-102](#), complies with Title 63G, Chapter
 125 22, State Training and Certification Requirements, if the training or certification is required:

126 (a) under this title;

127 (b) by the department; or

128 (c) by an agency or division within the department[-]; and

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

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

131 **62A-1-111.6. Powers and duties of the department to adjust program allocations**

132 **-- Use of remaining funds at the end of a fiscal year -- Reporting.**

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

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

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

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

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

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

144 (ii) results in a significant expansion of:

145 (A) a program; or

146 (B) the scope or type of benefit or service already provided; or

147 (iii) provides funding for a budget request that the Legislature previously declined.

148 (2) On or before December 1 of each year, the department shall report to the Social
 149 Services Appropriations Subcommittee:

150 (a) on the department's designation of priority programs to receive the unexpended
 151 money under Subsection (1)(a); and

152 (b) if applicable, on the department's use, during the prior fiscal year, of unexpended
153 money reallocated under Subsection (1).

154 (3) Except in accordance with pay plans developed and adopted as described in
155 Subsection 67-19-12(4)(a), the department may not allocate unexpended money under
156 Subsection (1) for a priority program's personnel costs.

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

158 **63J-1-206. Appropriations governed by chapter -- Restrictions on expenditures --**
159 **Transfer of funds -- Exclusion.**

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

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

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

166 (b) This section does not apply to:

167 (i) the Legislature and its committees; and

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

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

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

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

176 (ii) does not itself appropriate any money; and

177 (iii) is not itself an item of appropriation.

178 (c) (i) An appropriation or any surplus of any appropriation may not be diverted from
179 any department, agency, institution, division, or line item to any other department, agency,
180 institution, division, or line item.

181 (ii) If the money appropriated to an agency to pay lease payments under the program
182 established in Section 63A-5b-703 exceeds the amount required for the agency's lease

183 payments to the Division of Facilities Construction and Management, the agency may:

184 (A) transfer money from the lease payments line item to other line items within the
185 agency; and

186 (B) retain and use the excess money for other purposes.

187 (iii) The executive director of the Department of Human Services may transfer
188 unrestricted General Fund money appropriated to the department between line items within the
189 department in accordance with Section [62A-1-111.6](#).

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

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

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

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

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

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

204 (b) the Department of Administrative Services may transfer money appropriated for the
205 purpose of paying the costs of paid employee postpartum recovery leave under Section
206 [67-19-14.7](#) to another department, agency, institution, or division; and

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