S-0216.2

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SENATE BILL 5162**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 67th Legislature 2021 Regular Session**

**By** Senators Rolfes, Billig, King, Saldaña, and Wilson, C.

AN ACT Relating to unanticipated revenue; amending RCW 43.79.270 and 43.79.280; adding a new section to chapter 44.04 RCW; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

**Sec.**  RCW 43.79.270 and 2005 c 319 s 105 are each amended to read as follows:

(1) ((~~Whenever~~)) (a) Except as provided in subsection (3) of this section, whenever any money, from the federal government, or from other sources, which was not anticipated in the operating or capital budget approved by the legislature has been awarded or has actually been received ((~~and is designated to be spent for a specific purpose~~)) when the legislature is not in session, the head of any department, agency, board, or commission through which such expenditure shall be made is to submit to the governor a statement which may be in the form of a request for an allotment amendment setting forth the facts constituting the need for such expenditure and the estimated amount to be expended((~~: PROVIDED, That no expenditure shall be made in excess of the actual amount received, and no money shall be expended for any purpose except the specific purpose for which it was received~~)). The request must also contain a copy of solicitation required under (b) of this subsection and any response to it.

(b) Prior to submitting a request to the governor under (a) of this subsection, the head of any department, agency, board, or commission through which such expenditure shall be made must solicit spending ideas and priorities from the chair and ranking member of the appropriate committees of the legislature. The solicitation must be made in writing and the committees must be provided five business days to respond. If the appropriate committees of the legislature are uncertain, the speaker of the house of representatives and the majority leader of the senate, or their designees, must decide for their respective chamber when requested.

(c) A copy of any proposal submitted to the governor to expend money from an appropriated fund or account in excess of appropriations provided by law which is based on the receipt of unanticipated revenues shall be submitted to the ((~~joint legislative audit and review committee and also to the standing committees on~~)) ways and means committee of the ((~~house and~~)) senate ((~~if the legislature is in session at the same time as it is transmitted to the governor~~)) and the appropriations or capital budget committee of the house of representatives. The committees must be provided 10 business days to review and comment on the request to the governor prior to approval under RCW 43.79.280.

(2) Notwithstanding subsection (1) of this section, whenever money from any source that was not anticipated in the transportation budget approved by the legislature has been awarded or has actually been received ((~~and is designated to be spent for a specific purpose~~)) when the legislature is not in session, the head of a department, agency, board, or commission through which the expenditure must be made shall submit to the governor a statement, which may be in the form of a request for an allotment amendment, setting forth the facts constituting the need for the expenditure and the estimated amount to be expended. ((~~However, no expenditure may be made in excess of the actual amount received, and no money may be expended for any purpose except the specific purpose for which it was received.~~)) A copy of any proposal submitted to the governor to expend money from an appropriated transportation fund or account in excess of appropriations provided by law that is based on the receipt of unanticipated revenues must be submitted, at a minimum, to the standing committees on transportation of the house and senate at the same time as it is transmitted to the governor.

(3)(a) Whenever any money in the amount of $5,000,000 or more, from the federal government, or from other sources, which was not anticipated in the operating or capital budget approved by the legislature has been awarded or has actually been received when the legislature is not in session and the use of the money is unrestricted or provides discretion to use the moneys for more than one agency, program, or purpose, the head of any department, agency, board, or commission through which such expenditures shall be made must submit a request to the governor in the form of a proposed allotment amendment setting forth the facts constituting the need for such expenditure and the estimated amount to be expended.

(b) The governor may reject or revise the department, agency, board, or commission's request for an allotment amendment. Any request the governor desires to approve under RCW 43.79.280 must be submitted to the joint legislative unanticipated revenue oversight committee. The committee must be provided 10 business days to review, comment, and take action on the request prior to approval under RCW 43.79.280.

(4) Any request for an allotment amendment under subsections (1) and (3) of this section must also include an explanation of the timing, source, and availability of such funds and why the need for the expenditure could not have been anticipated in time for such expenditure to have been approved as part of a budget act for that particular fiscal year.

(5) Expenditures authorized under this section may not be made in excess of the actual amount received, and no money may be expended for any purpose except the specific purpose for which it was received.

(6) For purposes of this section, moneys have been awarded if the state has received a document or notification from the federal government or other sources setting forth the terms and conditions of a grant, cooperative agreement, or other agreement to receive financial assistance.

(7) Thirty days after the legislature convenes for any regular session or once the legislature convenes for any special session, any unanticipated moneys with operating or capital funding implications that were awarded or received while the legislature was not in session and has not been approved for expenditure by the governor under RCW 43.79.280 must be appropriated by law to be spent.

**Sec.**  RCW 43.79.280 and 2009 c 549 s 5150 are each amended to read as follows:

(1) If the governor approves such estimate in whole or part, he or she shall endorse on each copy of the statement his or her approval, together with a statement of the amount approved in the form of an allotment amendment, and transmit one copy to the head of the department, agency, board, or commission authorizing the expenditure. An identical copy of the governor's statement of approval and a statement of the amount approved for expenditure shall be transmitted simultaneously to the ((~~joint legislative audit and review committee and also to the standing committee on~~)) ways and means committee of the ((~~house and~~)) senate and the appropriations or capital budget committee of the house of representatives of all executive approvals of proposals to expend money in excess of appropriations provided by law.

(2) If the governor approves an estimate with transportation funding implications, in whole or part, he or she shall endorse on each copy of the statement his or her approval, together with a statement of the amount approved in the form of an allotment amendment, and transmit one copy to the head of the department, agency, board, or commission authorizing the expenditure. An identical copy of the governor's statement of approval of a proposal to expend transportation money in excess of appropriations provided by law and a statement of the amount approved for expenditure must be transmitted simultaneously to the standing committees on transportation of the house and senate.

(3) To change the amount, use, or purpose of an approved allotment amendment with operating or capital budget implications, the head of any department, agency, board, or commission must request the change using the process provided in RCW 43.79.270. For all other changes to approved allotment amendments, if the governor approves the change, he or she must simultaneously transmit one copy of the statement of approval to the head of the department, agency, board, or commission and to the ways and means committee of the senate and the appropriations or capital budget committee of the house of representatives.

(4) If the joint legislative unanticipated revenue oversight committee has rejected a request made pursuant to RCW 43.79.270(3), then the governor may not approve it. If the committee has rejected the request, then the governor or the head of a department, agency, board, or commission is free to submit new requests to spend the unanticipated moneys using the process provided in RCW 43.79.270(3).

NEW SECTION. **Sec.**  A new section is added to chapter 44.04 RCW to read as follows:

(1) There is hereby created a joint select committee to be known as the joint legislative unanticipated revenue oversight committee with the following eight members:

(a) The majority and minority leaders of the senate;

(b) The speaker and the minority leader of the house of representatives;

(c) Two additional members of the senate with one member from each of the two largest caucuses of the senate appointed by their respective leaders. These senators must be current members of the ways and means committee; and

(d) Two additional members of the house of representatives with one member from each of the major caucuses of the house of representatives appointed by their respective leaders. These representatives must be current members of the appropriations or capital budget committees.

(2) The cochairs of the committee are the leaders of the two largest caucuses of the senate in even-numbered years and the leaders of the two largest caucuses of the house of representatives in odd-numbered years.

(3) Staff support for the committee is provided by the senate committee services and the house of representatives office of program research.

(4) Members of the committee serve without additional compensation, but must be reimbursed for travel expenses in accordance with RCW 44.04.120. The expenses of the committee are paid jointly by the senate and the house of representatives and expenditures are subject to approval by the senate facilities and operations committee and the house of representatives executive rules committee, or their successor committees.

(5) The committee shall meet as necessary to review requests from the governor pursuant to RCW 43.79.270(3). The committee may conduct its meetings by conference telephone call, video call, or similar communications equipment so that all persons participating in the meeting can hear each other at the same time. The committee shall adopt rules and procedures for its orderly operation. The activities of the committee are suspended during regular or special legislative sessions.

(6) The purpose of the committee is to provide oversight of its delegation of state fiscal authority to the governor while the legislature is not in session and to prevent infringement on the legislature's constitutional power to appropriate state funds. The committee is empowered, during the interim between sessions of the legislature, to review, comment, and take action on requests to spend any unanticipated revenues from the federal government or from other sources awarded or actually received pursuant to RCW 43.79.270(3).

(7) The committee may require a requesting state agency, department, board, or commission to appear before the committee, submit additional information, or engage in other activities necessary for the committee to review and comment on requests.

(8) Action of the committee is limited to rejecting a request submitted by the governor under RCW 43.79.270(3). Action by the committee requires the unanimous vote of members of the committee in attendance at the meeting.

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

**--- END ---**