

SENATE BILL REPORT

SB 5162

As of January 26, 2021

Title: An act relating to unanticipated revenue.

Brief Description: Concerning unanticipated revenue.

Sponsors: Senators Rolfes, Billig, King, Saldaña and Wilson, C..

Brief History:

Committee Activity: Ways & Means: 1/26/21.

Brief Summary of Bill

- Revises the process to request the spending of unanticipated revenues.
- Creates a Joint Legislative Unanticipated Revenue Oversight Committee (oversight committee).
- Requires review by the oversight committee for requests to spend unanticipated revenue of \$5 million or more that is unrestricted or discretionary, before the Governor can approve spending.
- Allows the oversight committee to reject a request by a unanimous vote of the members in attendance at a meeting and allows the Governor to submit a new request if a request is rejected.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Julie Murray (786-7711)

Background: The unanticipated receipts process (UAR) permits the Governor to spend federal or non-state moneys without an appropriation if the moneys were not anticipated in the budget enacted by the Legislature. This process designates the Governor as the state's agent to receive these types of moneys.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

The process requires the head of an agency or department to request the Governor authorize a revision to its allotments. Allotments are the agency’s general spending plan based on the legislatively enacted budget that is reviewed and approved by the Office of Financial Management (OFM). The request must describe the need, amount, purpose and timing of the moneys to be spent. For spending that impacts the operating or capital budgets, the law requires the Joint Legislative Audit and Review Committee (JLARC) to be notified of the request at the same time as the Governor if the Legislature is not in session, or the Senate Ways & Means Committee and the House Appropriations Committee or House Capital Budget Committee, if in session. For spending that impacts the transportation budget, notice of the requests are submitted, at minimum, to the Transportation committees of the House and Senate.

Though not required by law, OFM allotment instructions provide that the committees are given ten days to review and comment on a UAR request. The Governor is authorized to revise any UAR request, approve them, and thereafter must notify JLARC and the committees. OFM allotment instructions also direct that while the Legislature is in session, UARs should not be submitted, and instead agencies should seek an appropriation in the budget.

Unanticipated receipts may range from very small private grants to large sums of federal moneys such as those received from the federal CARES act. The volume and spending from UARs vary by biennium.

Biennium	TOTAL UARs Operating and Capital	TOTAL UARs Transportation	Smallest UAR Amount	Largest UAR Amount	Total Amount Allotted through UARs
2015- 2017	55	10	\$3,900	\$30,280,000	\$51,731,000
2017- 2019	49	20	\$500	\$78,800,000	\$103,162,000
2019- 2021	141	5	\$5,000	\$800,000,000	\$3,107,716,000

Summary of Bill: The UAR process is available only when the Legislature is not in session. A UAR is required for moneys actually received or awarded. Notice of a UAR request with operating or capital costs is directed to the Senate Ways & Means Committee and the House Appropriations or Capital Budget Committee, and JLARC is removed. The committees must be given ten business days to review and comment on the request. The

agency making the UAR request must solicit spending ideas from the chair and ranking member of the appropriate legislative committee prior to submitting the request and provide five business days to respond.

Whenever unanticipated federal or non-state moneys of \$5 million dollars or more is unrestricted or provides discretion in spending, any request the Governor desires to approve must be reviewed by the Joint Legislative Unanticipated Revenue Oversight Committee (oversight committee). The Governor may revise the agency's request prior to submitting to the oversight committee.

The oversight committee is composed of the following eight members:

- the majority and minority leaders of the Senate;
- the speaker and the minority leader of the House of Representatives;
- two additional members of the Senate who must be current members of the Ways and Means Committee, with one member from each of the two largest caucuses of the Senate appointed by their respective leaders; and
- two additional members of the House of Representatives who must be current members of the Appropriations or Capital Budget committees, with one member from each of the major caucuses of the House of Representatives appointed by their respective leaders.

The oversight committee is co-chaired by Senate leadership in even-numbered years and House of Representatives leadership in odd-numbered years. The committee shall meet as necessary to review requests from the Governor, adopt rules and procedures for its operation, and may meet by electronic means. The purpose of the oversight committee is to review UARs and to potentially take action on UAR requests. The oversight committee may require a requesting agency for assistance in its review. Action of the committee is limited to rejecting a UAR request submitted by the Governor by the unanimous vote of members in attendance at the meeting. If the oversight committee rejects a request, the Governor may not approve it, but is free to submit a new request of the moneys for approval.

To change the amount, use, or purpose of an approved UAR, the Governor must submit a request for revision using the same process for the original request. All other revisions may be approved by the Governor and notice must be given to the appropriate fiscal committees of the Legislature.

Thirty days after the Legislature convenes for any regular session or once convened for special session, any unanticipated revenue received while the Legislature was not in session and has not been approved for spending through a UAR, must be appropriated. The activities of the oversight committee are suspended during regular or special legislative sessions.

Appropriation: None.

Fiscal Note: Requested on January 23, 2021.

Creates Committee/Commission/Task Force that includes Legislative members: Yes.

Effective Date: The bill contains an emergency clause and takes effect immediately.