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**ESSB 5092** - H AMD TO H AMD (H-1459.2/21) **528**

By Representative Stokesbary

**NOT ADOPTED 04/03/2021**

 On page 456, after line 3, insert the following:

"**Sec. 961.** RCW 43.79.270 and 2005 c 319 s 105 are each amended to read as follows:

(1) ((~~Whenever~~)) 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 budget approved by the legislature has actually been received and is designated to be spent for a specific purpose, 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. 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 of the house and senate if the legislature is in session at the same time as it is transmitted to the governor.

(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 actually been received and is designated to be spent for a specific purpose, 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) During the 2021-2023 fiscal biennium, 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 governor must:

(a) Submit a copy of the proposed allotment amendment to the joint legislative unanticipated revenue oversight committee;

(b) Provide 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; and

(c) Provide the joint legislative unanticipated revenue oversight committee 14 calendar days from submittal to provide the committee the opportunity to review and comment on the proposed allotment amendment before approving under RCW 43.79.280.

**Sec. 962.** RCW 43.79.280 and 2009 c 549 s 5150 are each amended to read as follows:

(1) ((~~If~~)) Except as provided in subsection (3) of this section, 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 of the house and senate 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) During the 2021-2023 fiscal biennium, before the governor may approve a proposed allotment amendment impacting the operating or capital budget as provided in RCW 43.79.270(3), the governor must provide the joint legislative unanticipated revenue oversight committee 14 calendar days from submittal to review and comment on the proposal. If the governor approves a proposed allotment amendment that committee rejected or is not modified to reflect the committee's alternative allotment amendment, the governor must submit a written explanation of the reasoning of such action to the joint legislative unanticipated revenue oversight committee within 5 days of approval. To change the amount, use, or purpose of an approved allotment amendment under this subsection, the head of any department, agency, board, or commission must request the change using the process provided in RCW 43.79.270(3). For all other changes, if the governor approves the change, a copy of the statement of approval must be sent to the joint legislative unanticipated revenue oversight committee."

Renumber remaining sections consecutively and correct internal references accordingly.

Correct the title.

On page 505, after line 29, insert the following:

"NEW SECTION. **Sec. 989.**  A new section is added to chapter 43.79 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 purpose of the committee is to review requests for proposed allotment amendments to spend unanticipated and unbudgeted moneys from federal and nonstate sources pursuant to RCW 43.79.270(3). The committee is necessary to provide oversight of the legislature's 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.

(6) The committee shall meet as necessary to review requests from the governor pursuant to RCW 43.79.270(3) and to provide comment within 14 calendar days. The committee may conduct its meetings and hold public hearings by conference telephone call, videoconference, or using similar technology 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.

(7) If the committee chooses to conduct a public hearing on a proposed allotment amendment, the committee must provide the office of financial management with 5 calendar days' notice of the public hearing. The office of financial management, or its designee, must appear before the committee to present the proposed allotment amendment and respond to questions. The committee may also require the state agency, department, board, or commission proposing the allotment amendment to appear before the committee, submit additional information, or engage in other activities necessary for the committee to review and comment on proposed allotment amendments.

(8) Action of the committee is limited to the review and comment on requests submitted by the governor under RCW 43.79.270(3). Action by the committee requires the majority vote of members of the committee in attendance at the meeting. Action may take the form of a recommendation approving the proposed allotment amendment, rejecting the proposed allotment amendment or proposing an alternative allotment amendment for governor consideration prior to approval under RCW 43.79.280. The committee's action is not binding on the governor.

NEW SECTION. **Sec. 990.** The president of the United States proposed the American jobs plan on March 31, 2021, and has requested the United States congress to provide additional federal funding to the states to rebuild the economy including, but not limited to, funding for infrastructure projects, building and utilities improvements, economic stimulus and jobs, and access to care and services for the aging and persons with disabilities. The legislature anticipates the receipt of this new federal funding and intends to appropriate any federal funds with an operating or capital budget impact in a future budget or appropriation act. The new federal funding may not be expended through the unanticipated process provided in RCW 43.79.270 and 43.79.280 or through any appropriation authority provided in this omnibus operating appropriations act or the omnibus capital appropriations act."

Renumber remaining sections consecutively and correct internal references accordingly.

Correct the title.

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|  |  EFFECT:   Adds requirements for use of the statutory unanticipated receipts (UAR) process to authorize expenditure of federal or other non-state receipts during the 2021-23 fiscal biennium. * Directs the Governor to provide notice and a 14-day review period to the Joint Legislative Unanticipated Revenue Oversight Committee before using the UAR process to approve allotment amendments of non-state revenues over $5 million. Establishes procedural requirements and content for the notice to the committee.
* Establishes the Joint Legislative Unanticipated Revenue Oversight Committee to review executive branch requests for allotment amendments to spend federal and other non-state moneys through the statutory UAR process. Establishes committee membership of eight legislators (the four leaders of the respective caucuses, two senators from the Ways & Means Committee, and two representatives from the House Appropriations or Capital Budget committees). Authorizes the committee to review the Governor's UAR requests, hold hearings, and provide comment and recommendations. Establishes procedures and timelines. Authorizes the committee to approve, reject or recommend an alternative UAR. Declares that Committee actions on UARs are not binding on the Governor.
* Requires the governor to provide a written explanation if the governor approves a UAR rejected or modified by the Committee. Requires a new UAR submission to change the amount, use, or purpose of a previously approved UAR.
* Acknowledges the receipt of additional federal funding from the proposed American Jobs Plan and directs that these moneys will be spent through the appropriation process, and not through the UAR process or federal appropriation authority provided in the operating or capital budgets.

  FISCAL IMPACT: No net change to appropriated levels. |

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