

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

By Representative Stokesbary

**NOT ADOPTED 04/03/2021**

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

2

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

5 (1) (~~Whenever~~) Except as provided in subsection (3) of this  
6 section, whenever any money, from the federal government, or from  
7 other sources, which was not anticipated in the budget approved by  
8 the legislature has actually been received and is designated to be  
9 spent for a specific purpose, the head of any department, agency,  
10 board, or commission through which such expenditure shall be made is  
11 to submit to the governor a statement which may be in the form of a  
12 request for an allotment amendment setting forth the facts  
13 constituting the need for such expenditure and the estimated amount  
14 to be expended: PROVIDED, That no expenditure shall be made in  
15 excess of the actual amount received, and no money shall be expended  
16 for any purpose except the specific purpose for which it was  
17 received. A copy of any proposal submitted to the governor to expend  
18 money from an appropriated fund or account in excess of  
19 appropriations provided by law which is based on the receipt of  
20 unanticipated revenues shall be submitted to the joint legislative  
21 audit and review committee and also to the standing committees on  
22 ways and means of the house and senate if the legislature is in  
23 session at the same time as it is transmitted to the governor.

24 (2) Notwithstanding subsection (1) of this section, whenever  
25 money from any source that was not anticipated in the transportation  
26 budget approved by the legislature has actually been received and is  
27 designated to be spent for a specific purpose, the head of a

1 department, agency, board, or commission through which the  
2 expenditure must be made shall submit to the governor a statement,  
3 which may be in the form of a request for an allotment amendment,  
4 setting forth the facts constituting the need for the expenditure  
5 and the estimated amount to be expended. However, no expenditure may  
6 be made in excess of the actual amount received, and no money may be  
7 expended for any purpose except the specific purpose for which it  
8 was received. A copy of any proposal submitted to the governor to  
9 expend money from an appropriated transportation fund or account in  
10 excess of appropriations provided by law that is based on the  
11 receipt of unanticipated revenues must be submitted, at a minimum,  
12 to the standing committees on transportation of the house and senate  
13 at the same time as it is transmitted to the governor.

14 (3) During the 2021-2023 fiscal biennium, whenever any money in  
15 the amount of \$5,000,000 or more, from the federal government, or  
16 from other sources, which was not anticipated in the operating or  
17 capital budget approved by the legislature has been awarded or has  
18 actually been received when the legislature is not in session and  
19 the use of the money is unrestricted or provides discretion to use  
20 the moneys for more than one agency, program, or purpose, the  
21 governor must:

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

24 (b) Provide an explanation of the timing, source, and  
25 availability of such funds and why the need for the expenditure  
26 could not have been anticipated in time for such expenditure to have  
27 been approved as part of a budget act for that particular fiscal  
28 year; and

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

33

34

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

3       (1) (~~(1f)~~) Except as provided in subsection (3) of this section,  
4 if the governor approves such estimate in whole or part, he or she  
5 shall endorse on each copy of the statement his or her approval,  
6 together with a statement of the amount approved in the form of an  
7 allotment amendment, and transmit one copy to the head of the  
8 department, agency, board, or commission authorizing the  
9 expenditure. An identical copy of the governor's statement of  
10 approval and a statement of the amount approved for expenditure  
11 shall be transmitted simultaneously to the joint legislative audit  
12 and review committee and also to the standing committee on ways and  
13 means of the house and senate of all executive approvals of  
14 proposals to expend money in excess of appropriations provided by law.

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

26       (3) During the 2021-2023 fiscal biennium, before the governor  
27 may approve a proposed allotment amendment impacting the operating  
28 or capital budget as provided in RCW 43.79.270(3), the governor must  
29 provide the joint legislative unanticipated revenue oversight  
30 committee 14 calendar days from submittal to review and comment on  
31 the proposal. If the governor approves a proposed allotment  
32 amendment that committee rejected or is not modified to reflect the  
33 committee's alternative allotment amendment, the governor must  
34 submit a written explanation of the reasoning of such action to the

1 joint legislative unanticipated revenue oversight committee within 5  
2 days of approval. To change the amount, use, or purpose of an  
3 approved allotment amendment under this subsection, the head of any  
4 department, agency, board, or commission must request the change  
5 using the process provided in RCW 43.79.270(3). For all other  
6 changes, if the governor approves the change, a copy of the  
7 statement of approval must be sent to the joint legislative  
8 unanticipated revenue oversight committee."

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10       Renumber remaining sections consecutively and correct internal  
11 references accordingly.

12

13       Correct the title.

14

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

16       "NEW SECTION. Sec. 989.     A new section is added to chapter  
17 43.79 RCW to read as follows:

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

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

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

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

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

33       (2) The cochairs of the committee are the leaders of the two  
34 largest caucuses of the senate in even-numbered years and the

1 leaders of the two largest caucuses of the house of representatives  
2 in odd-numbered years.

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

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

13 (5) The purpose of the committee is to review requests for  
14 proposed allotment amendments to spend unanticipated and unbudgeted  
15 moneys from federal and nonstate sources pursuant to RCW  
16 43.79.270(3). The committee is necessary to provide oversight of the  
17 legislature's delegation of state fiscal authority to the governor  
18 while the legislature is not in session and to prevent infringement  
19 on the legislature's constitutional power to appropriate state funds.

20 (6) The committee shall meet as necessary to review requests  
21 from the governor pursuant to RCW 43.79.270(3) and to provide  
22 comment within 14 calendar days. The committee may conduct its  
23 meetings and hold public hearings by conference telephone call,  
24 videoconference, or using similar technology equipment so that all  
25 persons participating in the meeting can hear each other at the same  
26 time. The committee shall adopt rules and procedures for its orderly  
27 operation. The activities of the committee are suspended during  
28 regular or special legislative sessions.

29 (7) If the committee chooses to conduct a public hearing on a  
30 proposed allotment amendment, the committee must provide the office  
31 of financial management with 5 calendar days' notice of the public  
32 hearing. The office of financial management, or its designee, must  
33 appear before the committee to present the proposed allotment  
34 amendment and respond to questions. The committee may also require

1 the state agency, department, board, or commission proposing the  
2 allotment amendment to appear before the committee, submit  
3 additional information, or engage in other activities necessary for  
4 the committee to review and comment on proposed allotment amendments.

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

14  
15 NEW SECTION. **Sec. 990.** The president of the United States  
16 proposed the American jobs plan on March 31, 2021, and has requested  
17 the United States congress to provide additional federal funding to  
18 the states to rebuild the economy including, but not limited to,  
19 funding for infrastructure projects, building and utilities  
20 improvements, economic stimulus and jobs, and access to care and  
21 services for the aging and persons with disabilities. The  
22 legislature anticipates the receipt of this new federal funding and  
23 intends to appropriate any federal funds with an operating or  
24 capital budget impact in a future budget or appropriation act. The  
25 new federal funding may not be expended through the unanticipated  
26 process provided in RCW 43.79.270 and 43.79.280 or through any  
27 appropriation authority provided in this omnibus operating  
28 appropriations act or the omnibus capital appropriations act."

29  
30 Renumber remaining sections consecutively and correct internal  
31 references accordingly.

32  
33 Correct the title.

34

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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