

Representative Ken Ivory proposes the following substitute bill:

FEDERALISM COMMISSION AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ken Ivory

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to the Federalism Commission and federal funds.

Highlighted Provisions:

This bill:

- ▶ amends provisions regarding the frequency of meetings of the Federalism Commission;
- ▶ amends provisions related to the Federalism Commission's role in reviewing federal laws for compliance with the principles of federalism;
- ▶ allows the Federalism Commission to contract with a third party to evaluate federal laws for compliance with the principles of federalism;
- ▶ increases membership of the Federalism Commission;
- ▶ requires the Federalism Commission to coordinate with a third party, the attorney general's office, and the Office of Legislative Research and General Counsel to provide a seminar on the principles of federalism;
- ▶ creates the Federal Program Reserve Account to augment or replace federal funding that is rejected by the Legislature or otherwise no longer available;
- ▶ allows the Federalism Commission to analyze and provide recommendations on federal funds and federal programs; and



26 ▶ makes technical changes.

27 **Money Appropriated in this Bill:**

28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **63C-4a-302**, as last amended by Laws of Utah 2019, Chapter 246

34 **63C-4a-303**, as last amended by Laws of Utah 2019, Chapter 246

35 **63C-4a-304**, as renumbered and amended by Laws of Utah 2013, Chapter 101

36 **63C-4a-306**, as last amended by Laws of Utah 2019, Chapter 246

37 **63J-1-102**, as last amended by Laws of Utah 2019, Chapter 182

38 **63J-1-312**, as last amended by Laws of Utah 2019, Chapter 229

39 **63J-5-102**, as last amended by Laws of Utah 2018, Chapter 467

40 **63J-5-201**, as last amended by Laws of Utah 2021, Chapter 382

41 **63J-5-202**, as last amended by Laws of Utah 2021, Chapter 382

42 **63J-5-203**, as last amended by Laws of Utah 2016, Chapter 272

43 ENACTS:

44 **63J-1-316**, Utah Code Annotated 1953



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

47 Section 1. Section **63C-4a-302** is amended to read:

48 **63C-4a-302. Creation of Federalism Commission -- Membership -- Meetings --**

49 **Staff -- Expenses.**

50 (1) There is created the Federalism Commission, comprised of the following [~~nine~~] 12
51 members:

52 (a) the president of the Senate or the president of the Senate's designee who shall serve
53 as cochair of the commission;

54 (b) [~~two~~] three other members of the Senate, appointed by the president of the Senate;

55 (c) the speaker of the House or the speaker of the House's designee who shall serve as
56 cochair of the commission;

57 (d) [~~three~~] five other members of the House, appointed by the speaker of the House;

58 (e) the minority leader of the Senate or the minority leader of the Senate's designee;

59 and

60 (f) the minority leader of the House or the minority leader of the House's designee.

61 (2) (a) A majority of the members of the commission constitute a quorum of the
62 commission.

63 (b) Action by a majority of the members of a quorum constitutes action by the
64 commission.

65 [~~(3) The commission may meet up to nine times each year, unless additional meetings
66 are approved by the Legislative Management Committee.]~~

67 (3) Subject to relevant legislative rules and reasonable availability of staff and
68 commission members, the chairs of the commission may convene the commission, in the
69 chairs' discretion, as often as needed to carry out the duties of the commission as described in
70 this part.

71 (4) The Office of Legislative Research and General Counsel shall provide staff support
72 to the commission.

73 (5) Compensation and expenses of a member of the commission who is a legislator are
74 governed by Section [36-2-2](#) and Legislative Joint Rules, Title 5, Legislative Compensation and
75 Expenses.

76 (6) Nothing in this section prohibits the commission from closing a meeting under
77 Title 52, Chapter 4, Open and Public Meetings Act, or prohibits the commission from
78 complying with Title 63G, Chapter 2, Government Records Access and Management Act.

79 (7) The commission may, in the commission's discretion, elect to succeed to the
80 position of any of the following under a contract that any of the following are party to, subject
81 to applicable contractual provisions:

82 (a) the Commission on Federalism;

83 (b) the Commission for the Stewardship of Public Lands; and

84 (c) the Federal Funds Commission.

85 Section 2. Section **63C-4a-303** is amended to read:

86 **63C-4a-303. Federalism Commission to evaluate federal law -- Curriculum on**
87 **federalism.**

88 (1) (a) In accordance with Section 63C-4a-304, the commission may evaluate a federal
89 law:

90 [~~(a)~~] (i) as agreed by a majority of the commission; [~~or~~]

91 [~~(b)~~] (ii) submitted to the commission by a council member[-]; or

92 (iii) reported to the commission in accordance with Subsection (1)(b).

93 (b) (i) To assist the commission in the evaluation of federal law as required in this
94 section and Section 63C-4a-304, the commission may contract with a third party to monitor
95 federal law for possible implications on the principles of federalism.

96 (ii) A third party contracted to monitor federal law as described in Subsection (1)(b)(i)
97 shall:

98 (A) monitor federal law for possible implications on the principles of federalism and
99 state sovereignty; and

100 (B) report to the commission any law or action by the federal government that may
101 implicate the principles of federalism or state sovereignty.

102 (2) The commission may request information regarding a federal law under evaluation
103 from a United States senator or representative elected from the state.

104 (3) If the commission finds that a federal law is not authorized by the United States
105 Constitution or violates the principle of federalism as described in Subsection 63C-4a-304(2), a
106 commission cochair or the commission may:

107 (a) request from a United States senator or representative elected from the state:

108 (i) information about the federal law; or

109 (ii) assistance in communicating with a federal governmental entity regarding the
110 federal law;

111 (b) (i) give written notice of an evaluation made under Subsection (1) to the federal
112 governmental entity responsible for adopting or administering the federal law; and

113 (ii) request a response by a specific date to the evaluation from the federal
114 governmental entity; [~~and~~]

115 (c) request a meeting, conducted in person or by electronic means, with the federal
116 governmental entity, a representative from another state, or a United States Senator or
117 Representative elected from the state to discuss the evaluation of federal law and any possible
118 remedy[-]; or

119 (d) give written notice of an evaluation and the conclusions of the commission to any
120 other relevant entity.

121 (4) The commission may recommend to the governor that the governor call a special
122 session of the Legislature to give the Legislature an opportunity to respond to the commission's
123 evaluation of a federal law.

124 (5) A commission cochair may coordinate the evaluation of and response to federal law
125 with another state as provided in Section [63C-4a-305](#).

126 (6) The commission shall keep a current list on the Legislature's website of:

127 (a) a federal law that the commission evaluates under Subsection (1);

128 (b) an action taken by a cochair of the commission or the commission under
129 Subsection (3);

130 (c) any coordination undertaken with another state under Section [63C-4a-305](#); and

131 (d) any response received from a federal government entity that was requested under
132 Subsection (3).

133 (7) The commission shall develop curriculum for a seminar on the principles of
134 federalism. The curriculum shall be available to the general public and include:

135 (a) fundamental principles of federalism;

136 (b) the sovereignty, supremacy, and jurisdiction of the individual states, including their
137 police powers;

138 (c) the history and practical implementation of the Tenth Amendment to the United
139 States Constitution;

140 (d) the authority and limits on the authority of the federal government as found in the
141 United States Constitution;

142 (e) the relationship between the state and federal governments;

143 (f) methods of evaluating a federal law in the context of the principles of federalism;

144 (g) how and when challenges should be made to a federal law or regulation on the basis
145 of federalism;

146 (h) the separate and independent powers of the state that serve as a check on the federal
147 government;

148 (i) first amendment rights and freedoms contained therein; and

149 (j) any other issues relating to federalism the commission considers necessary.

150 (8) The commission may apply for and receive grants, and receive private donations to
151 assist in funding the creation, enhancement, and dissemination of the curriculum.

152 (9) The commission shall submit a report on or before November 30 of each year to the
153 Government Operations Interim Committee and the Natural Resources, Agriculture, and
154 Environment Interim Committee that:

155 (a) describes any action taken by the commission under Section 63C-4a-303; and

156 (b) includes any proposed legislation the commission recommends.

157 Section 3. Section 63C-4a-304 is amended to read:

158 **63C-4a-304. Standard for evaluation of federal law.**

159 (1) The commission shall [~~evaluate~~] determine whether a federal law evaluated under
160 Section 63C-4a-303 is authorized by:

161 (a) United States Constitution, Article I, Section 2, to provide for the decennial census;

162 (b) United States Constitution, Article I, Section 4, to override state laws regulating the
163 times, places, and manner of congressional elections, other than the place of senatorial
164 elections;

165 (c) United States Constitution, Article I, Section 7, to veto bills, orders, and resolutions
166 by Congress;

167 (d) United States Constitution, Article I, Section 8, to:

168 (i) lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for
169 the common defense and general welfare of the United States, but all duties, imposts, and
170 excises shall be uniform throughout the United States;

171 (ii) borrow money on the credit of the United States;

172 (iii) regulate commerce with foreign nations, among the several states, and with the
173 Indian tribes;

174 (iv) establish a uniform rule of naturalization and uniform laws on the subject of
175 bankruptcies throughout the United States;

176 (v) coin money, regulate the value of coin money and of foreign coin, and fix the
177 standard of weights and measures;

178 (vi) provide for the punishment of counterfeiting the securities and current coin of the
179 United States;

180 (vii) establish post offices and post roads;

181 (viii) promote the progress of science and useful arts, by securing for limited times to
182 authors and inventors the exclusive right to their respective writings and discoveries;

183 (ix) constitute tribunals inferior to the supreme court;

184 (x) define and punish piracies and felonies committed on the high seas and offences
185 against the law of nations;

186 (xi) declare war, grant letters of marque and reprisal, and make rules concerning
187 captures on land and water;

188 (xii) raise and support armies, but no appropriation of money to that use shall be for a
189 longer term than two years;

190 (xiii) provide and maintain a navy;

191 (xiv) make rules for the government and regulation of the land and naval forces;

192 (xv) provide for calling forth the militia to execute the laws of the union, suppress
193 insurrections, and repel invasions;

194 (xvi) provide for organizing, arming, and disciplining the militia, and for governing the
195 part of the militia that may be employed in the service of the United States, reserving to the
196 states respectively, the appointment of the officers and the authority of training the militia
197 according to the discipline prescribed by Congress;

198 (xvii) exercise exclusive legislation in all cases whatsoever, over such district, which
199 may not exceed 10 miles square, as may, by cession of particular states and the acceptance of
200 Congress, become the seat of the government of the United States, and to exercise like
201 authority over all places purchased by the consent of the legislature of the state in which the
202 place shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful
203 buildings; or

204 (xviii) make all laws which shall be necessary and proper for carrying into execution
205 the powers listed in this section, and all other powers vested by the United States Constitution
206 in the government of the United States, or in any department or officer of the United States;

207 (e) United States Constitution, Article I, Section 9, to authorize a federal officer to
208 receive benefits from a foreign nation;

209 (f) United States Constitution, Article I, Section 10, to fix the pay of members of
210 Congress and of federal officers;

211 (g) United States Constitution, Article II, Section 1, to:

- 212 (i) set the time for choosing electors; or
- 213 (ii) establish who succeeded to the presidency after the vice president;
- 214 (h) United States Constitution, Article II, Section 2, to:
 - 215 (i) serve as Commander-in-Chief of the armed forces;
 - 216 (ii) require the written opinions of executive officers;
 - 217 (iii) grant reprieves and pardons;
 - 218 (iv) make vacancy appointments;
 - 219 (v) make treaties, subject to the advice and consent of the United States Senate;
 - 220 (vi) appoint foreign affairs officers subject to the advice and consent of the United
 - 221 States Senate;
 - 222 (vii) appoint domestic affairs officers subject either to the advice and consent of the
 - 223 United States Senate or pursuant to law;
 - 224 (viii) appoint judges subject to the advice and consent of the United States Senate; or
 - 225 (ix) authorize the president to fill designated inferior offices without senatorial
 - 226 consent;
- 227 (i) United States Constitution, Article II, Section 3, to:
 - 228 (i) receive representatives of foreign powers;
 - 229 (ii) execute the laws;
 - 230 (iii) commission United States officers;
 - 231 (iv) give Congress information;
 - 232 (v) make recommendations to Congress;
 - 233 (vi) convene Congress on extraordinary occasions; or
 - 234 (vii) adjourn Congress if it cannot agree on a time;
- 235 (j) United States Constitution, Article III, Section 1, to:
 - 236 (i) create exceptions to the supreme court's appellate jurisdiction;
 - 237 (ii) fix the jurisdiction of federal courts inferior to the supreme court; or
 - 238 (iii) declare the punishment for treason;
- 239 (k) United States Constitution, Article IV, Section 1, to establish the rules by which the
- 240 records and judgments of states are proved in other states;
- 241 (l) United States Constitution, Article IV, Section 3, to:
 - 242 (i) manage federal property;

- 243 (ii) dispose of federal property;
- 244 (iii) govern the federal territories; or
- 245 (iv) consent to admission of new states or the combination of existing states;
- 246 (m) United States Constitution, Article IV, Section 4, to defend states from invasion,
- 247 insurrection, and non-republican forms of government;
- 248 (n) United States Constitution, Article V, Section 1, to propose constitutional
- 249 amendments;
- 250 (o) United States Constitution, Article VI, Section 1, to prescribe the oath for federal
- 251 officers;
- 252 (p) United States Constitution, Amendment XIII, to abolish slavery;
- 253 (q) United States Constitution, Amendment XIV, to guard people from certain state
- 254 abuses;
- 255 (r) United States Constitution, Amendment XVI, to impose taxes on income from any
- 256 source without having to apportion the total dollar amount of tax collected from each state
- 257 according to each state's population in relation to the total national population;
- 258 (s) United States Constitution, Amendment XX, to revise the manner of presidential
- 259 succession;
- 260 (t) United States Constitution, Amendment XV, XIX, XXIII, or XXIV, to extend and
- 261 protect the right to vote; or
- 262 (u) United States Constitution, Amendment XVII, to grant a pay raise to a sitting
- 263 Congress.
- 264 (2) The commission shall [~~evaluate~~] determine whether a federal law evaluated under
- 265 Section [63C-4a-303](#) violates the principle of federalism by:
 - 266 (a) affecting the distribution of power and responsibility among the state and national
 - 267 government;
 - 268 (b) limiting the policymaking discretion of the state;
 - 269 (c) impacting a power or a right reserved to the state or its citizens by the United States
 - 270 Constitution, Amendment IX or X; or
 - 271 (d) impacting the sovereignty rights and interest of the state or a political subdivision to
 - 272 provide for the health, safety, and welfare and promote the prosperity of the state's or political
 - 273 subdivision's inhabitants.

274 (3) In the evaluation of a federal law, the commission:
275 (a) shall rely on:
276 (i) the text of the United States Constitution, as amended;
277 (ii) the meaning of the text of the United States Constitution, as amended, at the time
278 of its drafting and ratification; and
279 (iii) a primary source document that is:
280 (A) directly relevant to the drafting, adoption, ratification, or initial implementation of
281 the United States Constitution, as amended; or
282 (B) created by a person directly involved in the drafting, adoption, ratification, or
283 initial implementation of the United States Constitution, as amended;
284 (b) may rely on other relevant sources, including federal court decisions; and
285 (c) is not bound by a holding by a federal court.
286 (4) (a) If the commission determines that a federal law is not authorized as described in
287 this section or otherwise violates the principles of federalism, the commission may recommend
288 the following actions, as appropriate, including:
289 (i) no action;
290 (ii) correspondence with relevant federal agencies or leaders;
291 (iii) initiating or coordinating public education efforts;
292 (iv) initiating or joining multi-state action;
293 (v) outreach and coordination with state and local government officers and agencies;
294 (vi) outreach or coordination with the state's congressional delegation and Congress as
295 a whole;
296 (vii) lobbying the state's congressional delegation and Congress as a whole;
297 (viii) legal challenges of the federal action;
298 (ix) enacting state laws to assert, defend, and preserve the constitutional allocation and
299 balance of governing powers between the federal government and the state; or
300 (x) a convention of the states pursuant to Article V of the United States Constitution.
301 (b) For a federal law or policy already adopted by the Legislature or for which the
302 Legislature has already taken action, if the commission determines that the federal law is not
303 authorized as described in this section or otherwise violates the principles of federalism, the
304 commission may take any of the actions described in Subsections (4)(a)(i) through (vi), as

305 appropriate.

306 (c) For a federal law or policy for which the Legislature has not taken action, if the
307 commission determines the federal law is not authorized as described in this section or
308 otherwise violates the principles of federalism, the commission may, with approval of the
309 Legislative Management Committee, may take other actions, as appropriate.

310 Section 4. Section **63C-4a-306** is amended to read:

311 **63C-4a-306. Course on federalism provided.**

312 (1) This section applies to:

- 313 (a) all political subdivisions of the state;
- 314 (b) all agencies of the state;
- 315 (c) the ~~[Attorney General's]~~ attorney general's office; and
- 316 (d) the Office of Legislative Research and General Counsel.

317 (2) (a) An employing entity listed in Subsection (1) shall appoint at least one designee
318 to which all questions and inquiries regarding federalism shall be directed. ~~[The designee shall~~
319 ~~be required to attend a seminar on the principles of federalism developed pursuant to~~
320 ~~Subsection **63C-4a-303**(7) at least once in every two-year period.]~~

321 ~~[(3) The designee may complete the requirements of this section by attending a seminar~~
322 ~~in person or online.]~~

323 (b) The commission may coordinate with a third party, the attorney general's office, or
324 the Office of Legislative Research and General Counsel to annually provide at no cost a
325 seminar on the principles of federalism to each attorney employed by an employing entity
326 described in Subsection (1).

327 (c) The seminar described in Subsection (2)(b) may be provided online or in-person.

328 Section 5. Section **63J-1-102** is amended to read:

329 **63J-1-102. Definitions.**

330 As used in this chapter:

331 (1) "Agency" means a unit of accounting, typically associated with a department,
332 division, board, council, committee, institution, office, bureau, or other similar administrative
333 unit of state government, that includes line items and programs.

334 (2) "Budget execution plan" means a proposal submitted by an administrative unit of
335 state government to the Division of Finance enumerating expected revenues and authorized

336 expenditures within line items and among programs.

337 (3) "Debt service" means the money that is required annually to cover the repayment of
338 interest and principal on state debt.

339 (4) (a) "Dedicated credits" means collections by an agency that fund agency operations.

340 (b) "Dedicated credits" includes:

341 (i) assessments;

342 (ii) sales of goods and materials;

343 (iii) sales of services;

344 (iv) permits, licenses, and other fees;

345 (v) fines, penalties, and forfeitures; and

346 (vi) rental revenue.

347 (c) "Dedicated credits" does not include:

348 (i) expendable receipts;

349 (ii) revenues otherwise designated by law for deposit into another fund or account;

350 (iii) federal revenues and the related pass through; or

351 (iv) revenues that are not deposited in governmental funds.

352 (5) (a) "Expendable receipts" means collections by an agency for expenditures that are
353 limited by a nonstate entity that provides the funds.

354 (b) "Expendable receipts" includes:

355 (i) grants;

356 (ii) state matches for federal revenues paid by a nonstate entity; and

357 (iii) rebates, including pharmacy rebates, that have similar restrictions on expenditures
358 as the original program.

359 (c) "Expendable receipts" does not include:

360 (i) dedicated credits;

361 (ii) revenues otherwise designated by law for deposit into another fund or account;

362 (iii) federal revenues and the related pass through; or

363 (iv) revenues that are not deposited into governmental funds.

364 (6) "Federal revenues" means collections by an agency from a federal source that are
365 deposited into an account for expenditure by the agency.

366 (7) "Federalism Commission" means the Federalism Commission created in Section

367 [63C-4a-302.](#)

368 [~~7~~] (8) "Free revenue" includes:

369 (a) collections that are required by law to be deposited in:

370 (i) the General Fund;

371 (ii) the Education Fund;

372 (iii) the Uniform School Fund; or

373 (iv) the Transportation Fund;

374 (b) collections that are not otherwise designated by law;

375 (c) collections that are not externally restricted; and

376 (d) collections that are not included in an approved budget execution plan.

377 [~~8~~] (9) "Grant" means the same as that term is defined in Section [63J-7-101](#).

378 [~~9~~] (10) (a) "Item of appropriation" means an authorization of expenditure contained

379 in legislation that appropriates funds and includes the following:

380 (i) the name of the agency and line item to which authorization is granted; and

381 (ii) sources of finance from which authorization is granted and associated amounts

382 authorized.

383 (b) "Item of appropriation" also includes:

384 (i) a schedule of programs;

385 (ii) intent language;

386 (iii) approved full-time equivalent employment;

387 (iv) authorized capital outlay; and

388 (v) other conditions of appropriation.

389 [~~10~~] (11) "Line item" means a unit of accounting, typically representing an

390 administrative unit of state government within an agency, that contains one or more programs.

391 [~~11~~] (12) "Major revenue types" means:

392 (a) free revenue;

393 (b) federal revenue;

394 (c) restricted revenue;

395 (d) dedicated credits; and

396 (e) expendable receipts.

397 [~~12~~] (13) "Program" means a unit of accounting included on a schedule of programs

398 within a line item used to track budget authorizations, collections, and expenditures on specific
399 purposes or functions.

400 [~~(13)~~] (14) "Restricted revenue" means collections that are:

401 (a) deposited, by law, into a separate fund, subfund, or account; and

402 (b) designated for a specific program or purpose.

403 [~~(14)~~] (15) "Schedule of programs" means a list of programs and associated
404 authorization amounts within an item of appropriation.

405 Section 6. Section **63J-1-312** is amended to read:

406 **63J-1-312. Establishing a General Fund Budget Reserve Account -- Providing for**
407 **deposits and expenditures from the account -- Providing for interest generated by the**
408 **account.**

409 (1) As used in this section:

410 (a) "Education Fund budget deficit" means a situation where appropriations made by
411 the Legislature from the Education Fund for a fiscal year exceed the estimated revenues
412 adopted by the Executive Appropriations Committee of the Legislature for the Education Fund
413 in that fiscal year.

414 (b) "General Fund appropriations" means the sum of the spending authority for a fiscal
415 year that is:

416 (i) granted by the Legislature in all appropriation acts and bills; and

417 (ii) identified as coming from the General Fund.

418 (c) "General Fund budget deficit" means a situation where General Fund appropriations
419 made by the Legislature for a fiscal year exceed the estimated revenues adopted by the
420 Executive Appropriations Committee of the Legislature for the General Fund in that fiscal year.

421 (d) "General Fund revenue surplus" means a situation where actual General Fund
422 revenues collected in a completed fiscal year exceed the estimated revenues for the General
423 Fund for that fiscal year that were adopted by the Executive Appropriations Committee of the
424 Legislature.

425 (e) "Operating deficit" means that, at the end of the fiscal year, the unassigned fund
426 balance in the General Fund is less than zero.

427 (2) There is created within the General Fund a restricted account to be known as the
428 General Fund Budget Reserve Account, which is designated to receive the legislative

429 appropriations and the surplus revenue required to be deposited into the account by this section.

430 (3) (a) (i) Except as provided in Subsection (3)(a)(ii), at the end of any fiscal year in
431 which the Division of Finance, in consultation with the Legislative Fiscal Analyst and in
432 conjunction with the completion of the annual audit by the state auditor, determines that there
433 is a General Fund revenue surplus, the Division of Finance shall transfer:

434 (A) 25% of the General Fund revenue surplus to the General Fund Budget Reserve
435 Account[-]; and

436 (B) 25% of the General Fund revenue surplus to the Federal Program Reserve Account
437 created in Section [63J-1-316](#).

438 (ii) If the transfer of 25% of the General Fund revenue surplus to the General Fund
439 Budget Reserve Account would cause the balance in the account to exceed 9% of General Fund
440 appropriations for the fiscal year in which the revenue surplus occurred, the Division of
441 Finance shall transfer only those funds necessary to ensure that the balance in the account
442 equals 9% of General Fund appropriations for the fiscal year in which the General Fund
443 revenue surplus occurred.

444 (iii) The Division of Finance shall calculate the amount to be transferred under this
445 Subsection (3)(a):

446 (A) after making the transfer of General Fund revenue surplus to the Medicaid Growth
447 Reduction and Budget Stabilization Account, as provided in Section [63J-1-315](#);

448 (B) before transferring from the General Fund revenue surplus any other year-end
449 contingency appropriations, year-end set-asides, or other year-end transfers required by law;
450 and

451 (C) excluding any direct legislative appropriation made to the General Fund Budget
452 Reserve Account for the fiscal year.

453 (b) (i) Except as provided in Subsection (3)(b)(ii), in addition to Subsection (3)(a)(i), if
454 a General Fund revenue surplus exists and if, within the last 10 years, the Legislature has
455 appropriated any money from the General Fund Budget Reserve Account that has not been
456 replaced by appropriation or as provided in this Subsection (3)(b), the Division of Finance shall
457 transfer up to 25% more of the General Fund revenue surplus to the General Fund Budget
458 Reserve Account to replace the amounts appropriated, until direct legislative appropriations, if
459 any, and transfers from the General Fund revenue surplus under this Subsection (3)(b) have

460 replaced the appropriations from the account.

461 (ii) If the transfer under Subsection (3)(b)(i) would cause the balance in the account to
462 exceed 9% of General Fund appropriations for the fiscal year in which the revenue surplus
463 occurred, the Division of Finance shall transfer only those funds necessary to ensure that the
464 balance in the account equals 9% of General Fund appropriations for the fiscal year in which
465 the revenue surplus occurred.

466 (iii) The Division of Finance shall calculate the amount to be transferred under this
467 Subsection (3)(b):

468 (A) after making the transfer of General Fund revenue surplus to the Medicaid Growth
469 Reduction and Budget Stabilization Account, as provided in Section [63J-1-315](#);

470 (B) before transferring from the General Fund revenue surplus any other year-end
471 contingency appropriations, year-end set-asides, or other year-end transfers required by law;
472 and

473 (C) excluding any direct legislative appropriation made to the General Fund Budget
474 Reserve Account for the fiscal year.

475 (c) For appropriations made by the Legislature to the General Fund Budget Reserve
476 Account, the Division of Finance shall treat those appropriations, unless otherwise specified in
477 the appropriation, as replacement funds for appropriations made from the account if funds were
478 appropriated from the General Fund Budget Reserve Account within the past 10 years and have
479 not yet been replaced.

480 (4) The Legislature may appropriate money from the General Fund Budget Reserve
481 Account only to:

482 (a) resolve a General Fund budget deficit, for the fiscal year in which the General Fund
483 budget deficit occurs;

484 (b) pay some or all of state settlement agreements approved under Title 63G, Chapter
485 10, State Settlement Agreements Act;

486 (c) pay claims approved under Section [63G-9-304](#);

487 (d) pay retroactive tax refunds; or

488 (e) resolve an Education Fund budget deficit~~[, or]~~.

489 ~~[(f) finance an existing federally funded program or activity when:]~~

490 ~~[(i) the federal funds expected to fund the federal program or activity are not available~~

491 to fund the program or activity; and]

492 ~~[(ii) the Legislature and governor concurrently determine that the program or activity is~~
493 ~~essential.]~~

494 (5) Interest generated from investments of money in the General Fund Budget Reserve
495 Account shall be deposited into the General Fund.

496 Section 7. Section **63J-1-316** is enacted to read:

497 **63J-1-316. Establishing a Federal Program Reserve Account.**

498 (1) There is created within the General Fund a restricted account to be known as the
499 Federal Program Reserve Account.

500 (2) The Federal Program Reserve Account shall consist of money from the following
501 revenue sources:

502 (a) money deposited into the account as described in Section [63J-1-312](#);

503 (b) appropriations made by the Legislature; and

504 (c) interest generated by the Federal Program Reserve Account.

505 (3) The Legislature may appropriate money from the Federal Program Reserve
506 Account only to finance an existing federally funded program or activity when:

507 (a) the federal funds expected to fund the federal program or activity are rejected or are
508 otherwise not available to fund the program or activity; and

509 (b) the Legislature and governor concurrently determine that the program or activity is
510 essential.

511 Section 8. Section **63J-5-102** is amended to read:

512 **63J-5-102. Definitions.**

513 (1) As used in this chapter:

514 (a) (i) "Agency" means a department, division, committee, commission, council, court,
515 or other administrative subunit of the state.

516 (ii) "Agency" includes:

517 (A) executive branch entities;

518 (B) judicial branch entities; and

519 (C) the State Board of Education.

520 (iii) "Agency" does not mean higher education institutions or political subdivisions.

521 (b) (i) "Federal funds" means cash or other money received from the United States

522 government or from other individuals or entities for or on behalf of the United States and
523 deposited with the state treasurer or any agency of the state.

524 (ii) "Federal funds" includes federal assistance and federal assistance programs,
525 however described.

526 (iii) "Federal funds" does not include money received from the United States
527 government to reimburse the state or local government entity for money expended by the state
528 or local government entity.

529 (c) "Federal funds reauthorization" means:

530 (i) the formal submission from an agency to the federal government applying for or
531 seeking reauthorization of federal funds which the state is currently receiving;

532 (ii) the formal submission from an agency to the federal government applying for or
533 seeking reauthorization to participate in a federal program in which the state is currently
534 participating that will result in federal funds being transferred to an agency; or

535 (iii) that period after the first year of a previously authorized and awarded grant or
536 funding award, during which federal funds are disbursed or are scheduled to be disbursed after
537 the first year because the term of the grant or financial award extends for more than one year.

538 (d) (i) "Federal funds request summary" means a document detailing:

539 (A) the amount of money that is being requested or is available to be received by the
540 state from the federal government for each federal funds reauthorization or new federal funds
541 request;

542 (B) those federal funds reauthorizations and new federal funds requests that are
543 included as part of the agency's proposed budget for the fiscal year, and the amount of those
544 requests;

545 (C) the amount of new state money, if any, that will be required to receive the federal
546 funds or participate in the federal program;

547 (D) the number of additional permanent full-time employees, additional permanent
548 part-time employees, or combination of additional permanent full-time employees and
549 additional permanent part-time employees, if any, that the state estimates are needed in order to
550 receive the federal funds or participate in the federal program; and

551 (E) any requirements that the state must meet as a condition for receiving the federal
552 funds or participating in the federal program.

553 (ii) "Federal funds request summary" includes, if available:
554 (A) the letter awarding an agency a grant of federal funds or other official
555 documentation awarding an agency a grant of federal funds; and
556 (B) a document detailing federal maintenance of effort requirements.
557 (e) "Federal maintenance of effort requirements" means any matching, level of effort,
558 or earmarking requirements, as defined in Office of Management and Budget requirements,
559 that are imposed on an agency as a condition of receiving federal funds.

560 (f) "Federalism Commission" means the Federalism Commission created in Section
561 63C-4a-302.

562 [~~(f)~~] (g) (i) "Intergovernmental transfer program" means an existing reimbursement
563 program or category that is authorized by the Medicaid state plan or waiver authority for
564 intergovernmental transfers.

565 (ii) "Intergovernmental transfer program" does not include the addition of a provider to
566 an existing intergovernmental transfer program.

567 [~~(g)~~] (h) "Local education agency" or "LEA" means:

- 568 (i) a school district;
- 569 (ii) a charter school; or
- 570 (iii) the Utah Schools for the Deaf and the Blind.

571 [~~(h)~~] (i) "New federal funds" means:

572 (i) federal assistance or other federal funds that are available from the federal
573 government that:

- 574 (A) the state is not currently receiving; or
- 575 (B) exceed the federal funds amount most recently approved by the Legislature by
576 more than 25% for a federal grant or program in which the state is currently participating;

577 (ii) a federal assistance program or other federal program in which the state is not
578 currently participating; or

579 (iii) a one-time TANF request.

580 [~~(i)~~] (j) "New federal funds request" means:

581 (i) the formal submission from an agency to the federal government:

582 (A) applying for or otherwise seeking to obtain new federal funds; or

583 (B) applying for or seeking to participate in a new federal program that will result in

584 federal funds being transferred to an agency; or

585 (ii) a one-time TANF request.

586 ~~[(j)]~~ (k) (i) "New state money" means money, whether specifically appropriated by the
587 Legislature or not, that the federal government requires Utah to expend as a condition for
588 receiving the federal funds or participating in the federal program.

589 (ii) "New state money" includes money expended to meet federal maintenance of effort
590 requirements.

591 ~~[(k)]~~ (l) "One-time TANF request" means a proposed expenditure by the Department of
592 Workforce Services from its reserves of federal Temporary Assistance for Needy Families
593 funds:

594 (i) for a project or program that will last for a fixed amount of time and is not an
595 ongoing project or program of the Department of Workforce Services; and

596 (ii) that is greater than \$1,000,000 over the amount most recently approved by the
597 Legislature.

598 ~~[(l)]~~ (m) (i) "Pass-through federal funds" means federal funds provided to an agency
599 that are distributed to local governments or private entities without being used by the agency.

600 (ii) "Pass-through federal funds" does not include federal funds provided to the State
601 Board of Education that are distributed to a local education agency or other subrecipient
602 without being used by the State Board of Education.

603 ~~[(m)]~~ (n) "State" means the state of Utah and all of its agencies, and any administrative
604 subunits of those agencies.

605 (2) When this chapter describes an employee as a "permanent full-time employee" or a
606 "permanent part-time employee," it is not intended to, and may not be construed to, affect the
607 employee's status as an at-will employee.

608 Section 9. Section **63J-5-201** is amended to read:

609 **63J-5-201. Legislative appropriation subcommittees to review certain federal**
610 **funds reauthorizations -- Executive appropriations review -- Legislative approval.**

611 (1) The Governor's Office of Planning and Budget shall annually prepare and submit a
612 federal funds request summary for each agency to the Legislative Fiscal Analyst at the same
613 time the governor submits the confidential draft budget under Section **63J-1-201**.

614 (2) (a) The Legislative Fiscal Analyst, as directed by the Executive Appropriations

615 Committee, may include federal funds in the base budget appropriations act or acts, when those
616 acts are prepared as provided in JR3-2-402.

617 (b) The Legislative Fiscal Analyst shall submit a federal funds request summary for
618 each agency to the legislative appropriations subcommittee responsible for that agency's budget
619 for review during each annual general session and to the Federalism Commission.

620 (3) (a) Each legislative appropriations subcommittee shall review the federal funds
621 request summary and may:

622 [~~(a)~~] (i) recommend that the agency accept the federal funds or participate in the federal
623 program for the fiscal year under consideration; or

624 [~~(b)~~] (ii) recommend that the agency not accept the federal funds or not participate in
625 the federal program for the fiscal year under consideration.

626 (b) The Federalism Commission may review federal funds requests and provide
627 recommendations regarding the possible implications of the principles of federalism and state
628 sovereignty.

629 (4) The Legislative Executive Appropriations Committee shall:

630 (a) review each subcommittee's recommendation;

631 (b) determine whether or not the agency should be authorized to accept the federal
632 funds or participate in the federal program; and

633 (c) direct the Legislative Fiscal Analyst to include or exclude those federal funds and
634 federal programs in an annual appropriations act for approval by the Legislature.

635 (5) Legislative approval of an appropriations act containing federal funds constitutes
636 legislative approval of the federal grants or awards associated with the federal funds for the
637 purposes of compliance with the requirements of this chapter.

638 Section 10. Section **63J-5-202** is amended to read:

639 **63J-5-202. Governor to approve certain new federal funds requests.**

640 (1) (a) Before obligating the state to accept or receive new federal funds or to
641 participate in a new federal program, and no later than three months after submitting a new
642 federal funds request, and, where possible, before formally submitting the new federal funds
643 request, an executive branch agency shall submit a federal funds request summary to the
644 governor or the governor's designee for approval or rejection when:

645 (i) the state will receive total payments of \$1,000,000 or less per year if the new federal

646 funds request is approved;

647 (ii) receipt of the new federal funds will require no additional permanent full-time
648 employees, permanent part-time employees, or combination of additional permanent full-time
649 employees and permanent part-time employees; and

650 (iii) no new state money will be required to match the new federal funds or to
651 implement the new federal program for which the grant is issued.

652 (b) The Governor's Office of Planning and Budget shall report each new federal funds
653 request that is approved by the governor or the governor's designee and each new federal funds
654 request granted by the federal government to:

655 (i) the Legislature's Executive Appropriations Committee;

656 (ii) the Federalism Commission;

657 [~~(ii)~~] (iii) the Office of the Legislative Fiscal Analyst; and

658 [~~(iii)~~] (iv) the Office of Legislative Research and General Counsel.

659 (2) The governor or the governor's designee shall approve or reject each new federal
660 funds request submitted under the authority of this section.

661 (3) (a) If the governor or the governor's designee approves the new federal funds
662 request, the executive branch agency may accept the new federal funds or participate in the new
663 federal program.

664 (b) If the governor or the governor's designee rejects the new federal funds request, the
665 executive branch agency may not accept the new federal funds or participate in the new federal
666 program.

667 (4) If an executive branch agency fails to obtain the governor's or the governor's
668 designee's approval under this section, the governor may require the agency to:

669 (a) withdraw the new federal funds request;

670 (b) return the federal funds;

671 (c) withdraw from the federal program; or

672 (d) any combination of Subsections (4)(a), (4)(b), and (4)(c).

673 (5) If a letter or other official documentation awarding an agency a grant of federal
674 funds is not available to be included in a federal funds request summary submitted to the
675 Governor's Office of Planning and Budget under this section, the agency shall submit to the
676 Governor's Office of Planning and Budget the letter or other official documentation awarding

677 the agency a grant of federal funds before expending the federal funds granted.

678 Section 11. Section **63J-5-203** is amended to read:

679 **63J-5-203. Judicial council to approve certain new federal funds requests.**

680 (1) (a) Before obligating the state to accept or receive new federal funds or to
681 participate in a new federal program, and no later than three months after submitting a new
682 federal funds request, and, where possible, before formally submitting the new federal funds
683 request, a judicial branch agency shall submit a federal funds request summary to the Judicial
684 Council for its approval or rejection when:

685 (i) the state will receive total payments of \$1,000,000 or less per year if the new federal
686 funds request is approved;

687 (ii) receipt of the new federal funds will require no additional permanent full-time
688 employees, additional permanent part-time employees, or combination of additional permanent
689 full-time employees and permanent part-time employees; and

690 (iii) no new state money will be required to match the new federal funds or to
691 implement the new federal program for which the grant is issued.

692 (b) The Judicial Council shall report each new federal funds request that is approved by
693 it and each new federal funds request granted by the federal government to:

694 (i) the Legislature's Executive Appropriations Committee;

695 (ii) the Federalism Commission;

696 [~~(ii)~~] (iii) the Office of the Legislative Fiscal Analyst; and

697 [~~(iii)~~] (iv) the Office of Legislative Research and General Counsel.

698 (2) The Judicial Council shall approve or reject each new federal funds request
699 submitted to it under the authority of this section.

700 (3) (a) If the Judicial Council approves the new federal funds request, the judicial
701 branch agency may accept the new federal funds or participate in the new federal program.

702 (b) If the Judicial Council rejects the new federal funds request, the judicial branch
703 agency may not accept the new federal funds or participate in the new federal program.

704 (4) If a judicial branch agency fails to obtain the Judicial Council's approval under this
705 section, the Judicial Council may require the agency to:

706 (a) withdraw the new federal funds request;

707 (b) return the federal funds;

- 708 (c) withdraw from the federal program; or
- 709 (d) any combination of Subsections (4)(a), (4)(b), and (4)(c).
- 710 (5) If a letter or other official documentation awarding a judicial branch agency a grant
- 711 of federal funds is not available to be included in a federal funds request summary submitted to
- 712 the Judicial Council under this section, the judicial branch agency shall submit to the Judicial
- 713 Council the letter or other official documentation awarding the judicial branch agency a grant
- 714 of federal funds before expending the federal funds granted.