

FEDERAL FUNDS PROCEDURES ACT AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Justin L. Fawson

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Federal Funds Procedures Act by amending provisions relating to federal funds review and approval requirements.

Highlighted Provisions:

This bill:

- ▶ provides and amends definitions;
- ▶ provides that the State Board of Education is subject to the review and approval requirements for federal funds;
- ▶ provides that a federal funds request summary includes certain documentation awarding an agency a grant of federal funds;
- ▶ specifies procedures for the State Board of Education to approve certain new federal funds requests; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63J-5-102, as last amended by Laws of Utah 2015, Chapter 190



28 **63J-5-204**, as last amended by Laws of Utah 2011, Chapter 326

29 ENACTS:

30 **63J-5-203.5**, Utah Code Annotated 1953

31

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

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

34 **63J-5-102. Definitions.**

35 (1) As used in this chapter:

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

38 (ii) "Agency" includes:

39 (A) executive branch entities [and];

40 (B) judicial branch entities; and

41 (C) the State Board of Education.

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

43 (b) (i) "Federal funds" means cash or other money received from the United States
44 government or from other individuals or entities for or on behalf of the United States and
45 deposited with the state treasurer or any agency of the state.

46 (ii) "Federal funds" includes federal assistance and federal assistance programs,
47 however described.

48 (iii) "Federal funds" does not include money received from the United States
49 government to reimburse the state for money expended by the state.

50 (c) "Federal funds reauthorization" means:

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

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

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

- 59 (d) (i) "Federal funds request summary" means a document detailing:
60 [~~(i)~~] (A) the amount of money that is being requested or is available to be received by
61 the state from the federal government for each federal funds reauthorization or new federal
62 funds request;
63 [~~(ii)~~] (B) those federal funds reauthorizations and new federal funds requests that are
64 included as part of the agency's proposed budget for the fiscal year, and the amount of those
65 requests;
66 [~~(iii)~~] (C) the amount of new state money, if any, that will be required to receive the
67 federal funds or participate in the federal program;
68 [~~(iv)~~] (D) the number of additional permanent full-time employees, additional
69 permanent part-time employees, or combination of additional permanent full-time employees
70 and additional permanent part-time employees, if any, that the state estimates are needed in
71 order to receive the federal funds or participate in the federal program; and
72 [~~(v)~~] (E) any requirements that the state must meet as a condition for receiving the
73 federal funds or participating in the federal program.
- 74 (ii) "Federal funds request summary" includes:
75 (A) the letter awarding an agency a grant of federal funds; or
76 (B) other official documentation awarding an agency a grant of federal funds.
- 77 (e) "Federal maintenance of effort requirements" means any matching, level of effort,
78 or earmarking requirements, as defined in Office of Management and Budget Circular A-133,
79 Compliance Requirement G, that are imposed on an agency as a condition of receiving federal
80 funds.
- 81 (f) "Local education agency" or "LEA" means:
82 (i) a school district;
83 (ii) a charter school; or
84 (iii) the Utah Schools for the Deaf and the Blind.
- 85 [~~(f)~~] (g) "New federal funds" means:
86 (i) federal assistance or other federal funds that are available from the federal
87 government that:
88 (A) the state is not currently receiving; or
89 (B) exceed the federal funds amount most recently approved by the Legislature by

90 more than 25% for a federal grant or program in which the state is currently participating;

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

93 (iii) a one-time TANF request.

94 [~~g~~] (h) "New federal funds request" means:

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

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

97 (B) applying for or seeking to participate in a new federal program that will result in
98 federal funds being transferred to an agency; or

99 (ii) a one-time TANF request.

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

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

105 [~~i~~] (j) "One-time TANF request" means a proposed expenditure by the Department of
106 Workforce Services from its reserves of federal Temporary Assistance for Needy Families
107 funds:

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

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

112 [~~j~~] (k) (i) "Pass-through federal funds" means federal funds provided to an agency
113 that are distributed to local governments or private entities without being used by the agency.

114 (ii) "Pass-through federal funds" does not include federal funds provided to the State
115 Board of Education that are distributed to a local education agency without being used by the
116 State Board of Education.

117 [~~k~~] (l) "State" means the state of Utah and all of its agencies, and any administrative
118 subunits of those agencies.

119 (2) When this chapter describes an employee as a "permanent full-time employee" or a
120 "permanent part-time employee," it is not intended to, and may not be construed to, affect the

121 employee's status as an at-will employee.

122 Section 2. Section **63J-5-203.5** is enacted to read:

123 **63J-5-203.5. State Board of Education to approve certain new federal funds**
124 **requests.**

125 (1) (a) Before obligating the state to accept or receive new federal funds or to
126 participate in a new federal program, and no later than three months after submitting a new
127 federal funds request, and, where possible, before formally submitting the new federal funds
128 request, the State Board of Education shall review a federal funds request summary of the State
129 Board of Education when:

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

132 (ii) receipt of the new federal funds will require no additional permanent full-time
133 employees, additional permanent part-time employees, or a combination of additional
134 permanent full-time employees and permanent part-time employees; and

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

137 (b) The State Board of Education shall approve or reject each new federal funds
138 request reviewed under this section.

139 (2) The State Board of Education shall report each new federal funds request that is
140 approved by the board and each new federal funds request granted to the board by the federal
141 government to:

142 (a) the Legislature's Executive Appropriations Committee;

143 (b) the Office of Legislative Fiscal Analyst; and

144 (c) the Office of Legislative Research and General Counsel.

145 Section 3. Section **63J-5-204** is amended to read:

146 **63J-5-204. Legislative review and approval of certain federal funds requests.**

147 (1) As used in this section:

148 (a) "High impact federal funds request" means a new federal funds request that will or
149 could:

150 (i) result in the state receiving total payments of \$10,000,000 or more per year from the
151 federal government;

152 (ii) require the state to add 11 or more permanent full-time employees, 11 or more
153 permanent part-time employees, or combination of permanent full-time and permanent
154 part-time employees equal to 11 or more in order to receive the new federal funds or participate
155 in the new federal program; or

156 (iii) require the state to expend more than \$1,000,000 of new state money in a fiscal
157 year in order to receive or administer the new federal funds or participate in the new federal
158 program.

159 (b) "Medium impact federal funds request" means a new federal funds request that will
160 or could:

161 (i) result in the state receiving total payments of more than \$1,000,000 but less than
162 \$10,000,000 per year from the federal government;

163 (ii) require the state to add more than zero but less than 11 permanent full-time
164 employees, more than zero but less than 11 permanent part-time employees, or a combination
165 of permanent full-time employees and permanent part-time employees equal to more than zero
166 but less than 11 in order to receive or administer the new federal funds or participate in the new
167 federal program; or

168 (iii) require the state to expend \$1 to \$1,000,000 of new state money in a fiscal year in
169 order to receive or administer the new federal funds or participate in the new federal program.

170 (2) (a) (i) Before obligating the state to accept or receive new federal funds or to
171 participate in a new federal program under a medium impact federal funds request that was not
172 authorized during a legislative session as provided in Section 63J-5-201, an agency shall:

173 (A) submit the federal funds request summary to the governor [or], the Judicial
174 Council, or the State Board of Education, as appropriate, for approval or rejection; and

175 (B) if the governor [or], the Judicial Council, or the State Board of Education approves
176 the new federal funds request, submit the federal funds request summary to the Legislative
177 Executive Appropriations Committee for its review and recommendations.

178 (ii) The procedures required under Subsection (2)(a)(i) shall be performed, if possible,
179 before the date that the medium impact funds request is formally submitted, but not later than
180 three months after the date of formal submission.

181 (b) The Legislative Executive Appropriations Committee shall review the federal funds
182 request summary and may:

- 183 (i) recommend that the agency accept the new federal funds;
184 (ii) recommend that the agency not accept the new federal funds; or
185 (iii) recommend to the governor that the governor call a special session of the
186 Legislature to review and approve or reject the acceptance of the new federal funds.
- 187 (3) (a) (i) Before obligating the state to accept or receive new federal funds or to
188 participate in a new federal program under a high impact federal funds request that was not
189 authorized during a legislative session as provided in Section 63J-5-201, an agency shall:
- 190 (A) submit the federal funds request summary to the governor [or], the Judicial
191 Council, or the State Board of Education, as appropriate, for approval or rejection; and
192 (B) if the governor [or], the Judicial Council, or the State Board of Education approves
193 the new federal funds request, submit the federal funds request summary to the Legislature for
194 its approval or rejection in an annual general session or a special session.
- 195 (ii) The procedures required under Subsection (3)(a)(i) shall be performed, if possible,
196 before the date that the high impact funds request is formally submitted, but not later than three
197 months after the date of formal submission.
- 198 (b) (i) If the Legislature approves the new federal funds request, the agency may accept
199 the new federal funds or participate in the new federal program.
- 200 (ii) If the Legislature fails to approve the new federal funds request, the agency may not
201 accept the new federal funds or participate in the new federal program.
- 202 (4) If an agency fails to comply with the procedures of this section or fails to obtain the
203 Legislature's approval:
- 204 (a) the governor [or], the Judicial Council, or the State Board of Education, as
205 appropriate, may require the agency to withdraw the new federal funds request or refuse or
206 return the new federal funds;
- 207 (b) the Legislature may, if federal law allows, opt out or decline to participate in the
208 new federal program or decline to receive the new federal funds; or
- 209 (c) the Legislature may reduce the agency's General Fund appropriation in an amount
210 less than, equal to, or greater than the amount of federal funds received by the agency.