

**FEDERAL FUNDS PROCEDURES ACT AMENDMENTS**

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Justin L. Fawson**

Senate Sponsor: Ann Millner

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**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;
- ▶ provides that if certain documentation is not included in a federal funds request summary, it shall be submitted before expending a federal funds grant;
- ▶ 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

30 **63J-5-202**, as last amended by Laws of Utah 2013, Chapter 310

31 **63J-5-203**, as renumbered and amended by Laws of Utah 2008, Chapter 382

32 **63J-5-204**, as last amended by Laws of Utah 2011, Chapter 326

33 ENACTS:

34 **63J-5-203.5**, Utah Code Annotated 1953



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

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

38 **63J-5-102. Definitions.**

39 (1) As used in this chapter:

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

42 (ii) "Agency" includes:

43 (A) executive branch entities [and];

44 (B) judicial branch entities; and

45 (C) the State Board of Education.

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

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

50 (ii) "Federal funds" includes federal assistance and federal assistance programs,  
51 however described.

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

54 (c) "Federal funds reauthorization" means:

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

57 (ii) the formal submission from an agency to the federal government applying for or

58 seeking reauthorization to participate in a federal program in which the state is currently  
59 participating that will result in federal funds being transferred to an agency; or

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

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

64 [(†)] (A) the amount of money that is being requested or is available to be received by  
65 the state from the federal government for each federal funds reauthorization or new federal  
66 funds request;

67 [(†)] (B) those federal funds reauthorizations and new federal funds requests that are  
68 included as part of the agency's proposed budget for the fiscal year, and the amount of those  
69 requests;

70 [(†)] (C) the amount of new state money, if any, that will be required to receive the  
71 federal funds or participate in the federal program;

72 [(†)] (D) the number of additional permanent full-time employees, additional  
73 permanent part-time employees, or combination of additional permanent full-time employees  
74 and additional permanent part-time employees, if any, that the state estimates are needed in  
75 order to receive the federal funds or participate in the federal program; and

76 [(†)] (E) any requirements that the state must meet as a condition for receiving the  
77 federal funds or participating in the federal program.

78 (ii) "Federal funds request summary" includes, if available:

79 (A) the letter awarding an agency a grant of federal funds; or

80 (B) other official documentation awarding an agency a grant of federal funds.

81 (e) "Federal maintenance of effort requirements" means any matching, level of effort,  
82 or earmarking requirements, as defined in Office of Management and Budget [~~Circular A-133~~,  
83 ~~Compliance Requirement G~~] requirements, that are imposed on an agency as a condition of  
84 receiving federal funds.

85 (f) "Local education agency" or "LEA" means:

- 86            (i) a school district;
- 87            (ii) a charter school; or
- 88            (iii) the Utah Schools for the Deaf and the Blind.

89            [~~f~~] (g) "New federal funds" means:

90            (i) federal assistance or other federal funds that are available from the federal  
91 government that:

92            (A) the state is not currently receiving; or

93            (B) exceed the federal funds amount most recently approved by the Legislature by  
94 more than 25% for a federal grant or program in which the state is currently participating;

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

97            (iii) a one-time TANF request.

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

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

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

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

103            (ii) a one-time TANF request.

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

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

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

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

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

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

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

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

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

126 Section 2. Section **63J-5-202** is amended to read:

127 **63J-5-202. Governor to approve certain new federal funds requests.**

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

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

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

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

140 (b) The Governor's Office of Management and Budget shall report each new federal  
141 funds request that is approved by the governor or the governor's designee and each new federal

142 funds request granted by the federal government to:

- 143 (i) the Legislature's Executive Appropriations Committee;
- 144 (ii) the Office of the Legislative Fiscal Analyst; and
- 145 (iii) the Office of Legislative Research and General Counsel.

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

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

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

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

- 156 (a) withdraw the new federal funds request;
- 157 (b) return the federal funds;
- 158 (c) withdraw from the federal program; or
- 159 (d) any combination of Subsections (4)(a), (4)(b), and (4)(c).

160 (5) If a letter or other official documentation awarding an agency a grant of federal  
161 funds is not available to be included in a federal funds request summary submitted to the  
162 Governor's Office of Management and Budget under this section, the agency shall submit to the  
163 Governor's Office of Management and Budget the letter or other official documentation  
164 awarding the agency a grant of federal funds before expending the federal funds granted.

165 Section 3. Section **63J-5-203** is amended to read:

166 **63J-5-203. Judicial council to approve certain new federal funds requests.**

167 (1) (a) Before obligating the state to accept or receive new federal funds or to  
168 participate in a new federal program, and no later than three months after submitting a new  
169 federal funds request, and, where possible, before formally submitting the new federal funds

170 request, a judicial branch agency shall submit a federal funds request summary to the Judicial  
171 Council for its approval or rejection when:

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

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

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

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

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

182 (ii) the Office of the Legislative Fiscal Analyst; and

183 (iii) the Office of Legislative Research and General Counsel.

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

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

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

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

192 (a) withdraw the new federal funds request;

193 (b) return the federal funds;

194 (c) withdraw from the federal program; or

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

196 (5) If a letter or other official documentation awarding a judicial branch agency a grant  
197 of federal funds is not available to be included in a federal funds request summary submitted to

198 the Judicial Council under this section, the judicial branch agency shall submit to the Judicial  
199 Council the letter or other official documentation awarding the judicial branch agency a grant  
200 of federal funds before expending the federal funds granted.

201 Section 4. Section **63J-5-203.5** is enacted to read:

202 **63J-5-203.5. State Board of Education to approve certain new federal funds**  
203 **requests.**

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

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

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

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

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

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

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

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

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

224 (3) If a letter or other official documentation awarding the State Board of Education a  
225 grant of federal funds is not available to be included in the federal funds request summary



226 submitted under this section, the letter or other official documentation awarding the State  
227 Board of Education a grant of federal funds shall be submitted to the State Board of Education  
228 before expending the federal funds granted.

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

230 **63J-5-204. Legislative review and approval of certain federal funds requests.**

231 (1) As used in this section:

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

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

236 (ii) require the state to add 11 or more permanent full-time employees, 11 or more  
237 permanent part-time employees, or combination of permanent full-time and permanent  
238 part-time employees equal to 11 or more in order to receive the new federal funds or participate  
239 in the new federal program; or

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

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

245 (i) result in the state receiving total payments of more than \$1,000,000 but less than  
246 \$10,000,000 per year from the federal government;

247 (ii) require the state to add more than zero but less than 11 permanent full-time  
248 employees, more than zero but less than 11 permanent part-time employees, or a combination  
249 of permanent full-time employees and permanent part-time employees equal to more than zero  
250 but less than 11 in order to receive or administer the new federal funds or participate in the new  
251 federal program; or

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

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

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

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

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

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

267 (i) recommend that the agency accept the new federal funds;

268 (ii) recommend that the agency not accept the new federal funds; or

269 (iii) recommend to the governor that the governor call a special session of the  
270 Legislature to review and approve or reject the acceptance of the new federal funds.

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

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

276 (B) if the governor [or], the Judicial Council, or the State Board of Education approves  
277 the new federal funds request, submit the federal funds request summary to the Legislature for  
278 its approval or rejection in an annual general session or a special session.

279 (ii) The procedures required under Subsection (3)(a)(i) shall be performed, if possible,  
280 before the date that the high impact funds request is formally submitted, but not later than three  
281 months after the date of formal submission.

282 (b) (i) If the Legislature approves the new federal funds request, the agency may accept  
283 the new federal funds or participate in the new federal program.

284 (ii) If the Legislature fails to approve the new federal funds request, the agency may not  
285 accept the new federal funds or participate in the new federal program.

286 (4) If an agency fails to comply with the procedures of this section or fails to obtain the  
287 Legislature's approval:

288 (a) the governor [~~or~~], the Judicial Council, or the State Board of Education, as  
289 appropriate, may require the agency to withdraw the new federal funds request or refuse or  
290 return the new federal funds;

291 (b) the Legislature may, if federal law allows, opt out or decline to participate in the  
292 new federal program or decline to receive the new federal funds; or

293 (c) the Legislature may reduce the agency's General Fund appropriation in an amount  
294 less than, equal to, or greater than the amount of federal funds received by the agency.

295 (5) If a letter or other official documentation awarding an agency a grant of federal  
296 funds is not available to be included in the agency's federal funds request summary to the  
297 governor, the Judicial Council, or the State Board of Education, as appropriate, under this  
298 section, the agency shall submit to the governor, the Judicial Council, or the State Board of  
299 Education, as appropriate, the letter or other official documentation awarding the agency a  
300 grant of federal funds before expending the federal funds granted.