

FEDERAL FUNDS PROCEDURES ACT AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lyle W. Hillyard

House Sponsor: Melvin R. Brown

LONG TITLE

General Description:

This bill modifies provisions in the Federal Funds Procedures Act.

Highlighted Provisions:

This bill:

- ▶ modifies definitions;
- ▶ provides that multiyear grants or awards are subject to the approval and summary requirements of the act in periods other than the initial year or grant period when funds continue to be disbursed;
- ▶ revises language governing approval procedures to provide additional clarity and improve readability;
- ▶ provides that federal funds contained in an appropriations act are considered approved when the appropriations act is passed;
- ▶ clarifies provisions relating to consequences for failing to obtain legislative approval on certain federal fund requests;
- ▶ permits an agency that receives excess federal funds to spend up to 25% of the excess funding without requesting formal approval under some circumstances; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

30 AMENDS:

31 **63J-5-102**, as renumbered and amended by Laws of Utah 2008, Chapter 382

32 **63J-5-201**, as renumbered and amended by Laws of Utah 2008, Chapter 382

33 **63J-5-204**, as renumbered and amended by Laws of Utah 2008, Chapter 382

34 ENACTS:

35 **63J-5-205**, Utah Code Annotated 1953



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

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

39 **63J-5-102. Definitions.**

40 (1) As used in this chapter:

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

43 (ii) "Agency" includes executive branch entities and judicial branch entities.

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

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

48 (ii) "Federal funds" includes federal assistance and federal assistance programs,
49 however described.

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

52 (c) "Federal funds reauthorization" means:

53 (i) the formal submission from an agency to the federal government~~[-(†)]~~ applying for
54 or seeking reauthorization of federal funds which the state is currently receiving; ~~[or]~~

55 (ii) the formal submission from an agency to the federal government applying for or
56 seeking reauthorization to participate in a federal program in which the state is currently
57 participating that will result in federal funds being transferred to an agency~~[-:];~~ or

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

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

62 (i) the amount of money that is being requested or is available to be received by the
63 state from the federal government for each federal funds reauthorization or new federal funds
64 request;

65 (ii) those federal funds reauthorizations and new federal funds requests that are
66 included as part of the agency's proposed budget for the fiscal year, and the amount of those
67 requests;

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

70 (iv) the number of additional permanent full-time employees, additional permanent
71 part-time employees, or combination of additional permanent full-time employees and
72 additional permanent part-time employees, if any, that the state estimates are needed in order to
73 receive the federal funds or participate in the federal program; and

74 (v) any requirements that the state must meet as a condition for receiving the federal
75 funds or participating in the federal program.

76 (e) "Federal maintenance of effort requirements" means any matching, level of effort,
77 or earmarking requirements, as defined in Office of Management and Budget Circular A-133,
78 Compliance Requirement G, that are imposed on an agency as a condition of receiving federal
79 funds.

80 (f) "New federal funds" means:

81 (i) federal assistance or other federal funds that are available from the federal
82 government [~~and~~] that;

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

84 (B) exceed the federal funds amount previously approved by the Legislature by more
85 than 25% for a federal grant or program in which the state is currently participating; or

86 (ii) a federal assistance program or other federal program in which the state is not
87 currently participating[;].

88 [~~(iii) each federal funds reauthorization that would require the state, as a condition for~~
89 ~~receiving the federal funds, to:]~~

90 [~~(A) add additional permanent full-time employees, permanent part-time employees, or~~
91 ~~combination of additional permanent full-time employees and permanent part-time employees;]~~

92 [~~(B) increase the amount of state matching funds required to receive the federal funds~~
93 ~~or participate in the federal program; or]~~

94 [~~(C) comply with new requirements in order to receive the federal funds or participate~~
95 ~~in the federal program.]~~

96 (g) "New federal funds request" means the formal submission from an agency to the
97 federal government:

98 (i) applying for or otherwise seeking to obtain new federal funds; or

99 (ii) applying for or seeking to participate in a new federal program that will result in
100 federal funds being transferred to an agency.

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

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

106 (i) "Pass-through federal funds" means federal funds provided to an agency that are
107 distributed to local governments or private entities without being used by the agency.

108 (j) "State" means the state of Utah and all of its agencies, and any administrative
109 subunits of those agencies.

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

113 Section 2. Section **63J-5-201** is amended to read:

114 **63J-5-201. Legislative Appropriation Subcommittees to review certain federal**
115 **funds reauthorizations -- Executive Appropriations review -- Legislative approval.**

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

119 (2) (a) The Legislative Fiscal Analyst, as directed by the Executive Appropriations
120 Committee, may include federal funds in the base budget appropriations act or acts, when those
121 acts are prepared as provided in JR3-2-402.

122 ~~[(2)(a)]~~ (b) The Legislative Fiscal Analyst shall submit a federal funds request
123 summary for each agency to the legislative appropriations subcommittee responsible for that
124 agency's budget for review during each annual general session.

125 ~~[(b)]~~ (3) Each legislative appropriations subcommittee shall review the federal funds
126 request summary and may:

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

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

131 ~~[(3)]~~ (4) The Legislative Executive Appropriations Committee shall:

132 (a) review each subcommittee's recommendation;

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

135 (c) direct the Legislative Fiscal Analyst to include or exclude those federal funds and
136 federal programs ~~[that the committee approves in the]~~ in an annual appropriations act for
137 approval by the Legislature.

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

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

142 **63J-5-204. Legislative review and approval of certain federal funds requests.**

143 (1) As used in this section:

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

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

148 (ii) require the state to add 11 or more permanent full-time employees, 11 or more
149 permanent part-time employees, or combination of permanent full-time and permanent
150 part-time employees equal to 11 or more in order to receive the new federal funds or participate
151 in the new federal program; or

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

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

157 (i) result in the state receiving total payments of more than \$1,000,000 but less than
158 \$10,000,000 per year from the federal government;

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

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

166 (2) (a) (i) Before obligating the state to accept or receive new federal funds or to
167 participate in a new federal program under a medium impact federal funds request~~[-and no~~
168 ~~later than three months after submitting a medium impact federal funds request, and, where~~
169 ~~possible, before formally submitting the medium impact federal funds request,] that was not~~

170 authorized during a legislative session as provided in Section 63J-5-201, an agency shall:

171 [(†)] (A) submit the federal funds request summary to the governor or the Judicial
172 Council, as appropriate, for approval or rejection; and

173 [(†)] (B) if the governor or Judicial Council approves the new federal funds request,
174 submit the federal funds request summary to the Legislative Executive Appropriations
175 Committee for its review and recommendations.

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

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

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

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

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

185 (3) (a) (i) Before obligating the state to accept or receive new federal funds or to
186 participate in a new federal program under a high impact federal funds request~~[-and no later~~
187 ~~than three months after submitting a high impact federal funds request, and, where possible,~~
188 ~~before formally submitting the high impact federal funds request,]~~ that was not authorized
189 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 Judicial Council,
191 as appropriate, for approval or rejection; and

192 [(†)] (B) if the governor or Judicial Council approves the new federal funds request,
193 submit the federal funds request summary to the Legislature for its approval or rejection in an
194 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 ~~[(e)]~~ (4) If an agency fails to comply with the procedures of this section or fails to
203 obtain the Legislature's approval ~~[under this Subsection (3)]~~:

204 ~~[(i)]~~ (a) the governor or Judicial Council, as appropriate, may require the agency to
205 withdraw the new federal funds request or refuse or return the new federal funds;

206 ~~[(ii)]~~ (b) the Legislature may, if federal law allows, opt out or decline to participate in
207 the new federal program or decline to receive the new federal funds; or

208 ~~[(iii)]~~ (c) the Legislature may reduce the agency's General Fund appropriation in an
209 amount less than, equal to, or greater than the amount of federal funds received by the agency.

210 Section 4. Section **63J-5-205** is enacted to read:

211 **63J-5-205. Federal funds awards that exceed approved appropriations.**

212 Each agency that receives federal funds greater than the amount approved through the
213 process provided for in this chapter may, using those excess funds, expend up to 25% in excess
214 of the of the amount approved if:

215 (1) receipt or use of the excess federal funds will not require the addition of one or
216 more permanent full-time employees or permanent part-time employees;

217 (2) no new state money will be required to match the excess federal funds; and

218 (3) receipt or use of the excess federal funds will not require the state to comply with
219 new requirements or conditions in order to receive the federal funds or to participate in the
220 federal program.