

1 **RESTRICTION OF FUNDING ON STATE**
2 **ENTITY WHOSE POLICY, RULE, OR**
3 **ACTION IS CONTRARY TO LAW**

4 2002 GENERAL SESSION

5 STATE OF UTAH

6 **Sponsor: Michael G. Waddoups**

7 **This act modifies the Budgetary Procedures Act by establishing a process to restrict the**
8 **funding on any agency whose rules, policies, or actions violate statute.**

9 This act affects sections of Utah Code Annotated 1953 as follows:

10 ENACTS:

11 **63-38-19**, Utah Code Annotated 1953

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

13 Section 1. Section **63-38-19** is enacted to read:

14 **63-38-19. Penalties for agency rules, policies, or actions that violate statute.**

15 (1) As used in this section:

16 (a) " Administrative budget" means that portion of an agency's appropriation allocated to
17 administration of the agency and includes monies appropriated for the salaries and benefits of the
18 agency director and his administrative staff.

19 (b) (i) "Agency" means each department, commission, board, council, agency, institution,
20 officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau,
21 panel, or other administrative unit of the state.

22 (ii) "Agency" includes the board of regents, the institutional councils of each higher
23 education institution, each higher education institution, and each public education entity.

24 (2) If an agency approves a rule or policy, or takes any action, that is contrary to state
25 statute, any legislator may inform the agency of that violation by notifying the agency's director,
26 in writing, of the violation.

27 (3) (a) If, after 30 days, a legislator determines that the agency has failed to remedy or



28 begin remedying the violation, the legislator may file a request to reduce appropriation with the
29 chair of the appropriations subcommittee having jurisdiction over the agency's budget.

30 (b) The request to reduce appropriation shall contain:

31 (i) a copy of the controlling statute;

32 (ii) a copy of the rule or policy, or a brief description of the action, that the legislator
33 alleges violates the statute;

34 (iii) a copy of the letter sent to the agency under Subsection (2);

35 (iv) other documentation supporting the legislator's allegations; and

36 (v) a request that the committee reduce the administrative budget of the agency by up to
37 50%, specifying the proposed dollar amount.

38 (4) The chair of the appropriations subcommittee that receives a request to reduce
39 appropriations shall schedule a hearing on the request no later than 60 days after the request is
40 received.

41 (5) At the hearing, the subcommittee shall:

42 (a) review the allegations submitted by the Legislature and any response from the agency;

43 (b) hear testimony from the legislator, the agency director, and other persons with relevant
44 information to contribute to the subcommittee's deliberations;

45 (c) issue subpoenas, if necessary, according to the procedures and requirements of Title
46 36, Chapter 14, Legislative Subpoena Powers; and

47 (d) if the subcommittee determines that there is substantial evidence that the agency's rule,
48 policy, or action violated statute, the committee shall recommend a decrease in the agency's
49 administrative budget of up to 50% to the Executive Appropriations Committee.

50 (6) At a subsequent annual general or special session, the Executive Appropriations
51 Committee shall include the subcommittee's recommended reduction in a supplemental
52 appropriations act.

Legislative Review Note

as of 1-28-02 1:09 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel