

**REVIEW AND APPROVAL OF FEDERAL  
MONIES RECEIVED BY THE STATE**

2004 GENERAL SESSION

STATE OF UTAH

**Sponsor: Chad E. Bennion**

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**LONG TITLE**

**General Description:**

This bill establishes procedures for review and approval of state agency efforts to obtain federal funds or participate in federal programs.

**Highlighted Provisions:**

This bill:

- ▶ requires that the governor approve all requests for federal funds originating in executive branch agencies;
- ▶ requires the Judicial Council to approve all requests for federal funds originating in judicial branch agencies;
- ▶ requires that the Executive Appropriations Committee review and approve certain federal funds requests;
- ▶ requires that the Legislature review and approve certain federal funds requests;
- ▶ requires that the appropriations subcommittees and the Executive Appropriations Committee review certain federal funds requests;
- ▶ establishes remedies if state agencies fail to obtain appropriate approvals; and
- ▶ makes technical corrections.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides an effective date.

**Utah Code Sections Affected:**

AMENDS:

**9-1-205**, as renumbered and amended by Chapter 241, Laws of Utah 1992

**9-1-809**, as last amended by Chapter 27, Laws of Utah 1999

**9-4-202**, as last amended by Chapter 95, Laws of Utah 2003

**9-8-405**, as renumbered and amended by Chapter 241, Laws of Utah 1992

**30-3-38**, as last amended by Chapter 269, Laws of Utah 2003

**35A-5-102**, as renumbered and amended by Chapter 375, Laws of Utah 1997

**53A-24-114**, as last amended by Chapter 240, Laws of Utah 1996

**62A-1-112**, as enacted by Chapter 1, Laws of Utah 1988

**62A-3-104**, as last amended by Chapter 268, Laws of Utah 2002

**63-34-15**, as renumbered and amended by Chapter 16, Laws of Utah 2003

**63-34-17**, as renumbered and amended by Chapter 16, Laws of Utah 2003

**63-34-101**, as last amended by Chapter 144, Laws of Utah 2003

**63-38-2 (Superseded 07/01/04)**, as last amended by Chapters 98 and 209, Laws of Utah  
2003

**63-38-2 (Effective 07/01/04)**, as last amended by Chapter 171, Laws of Utah 2003

**63-38d-301**, as enacted by Chapter 16, Laws of Utah 2003

**63-47-7**, as enacted by Chapter 173, Laws of Utah 1973

**65A-8-1.2**, as enacted by Chapter 320, Laws of Utah 1998

**71-7-3**, as last amended by Chapter 134, Laws of Utah 2000

**72-7-206**, as renumbered and amended by Chapter 270, Laws of Utah 1998

**72-7-207**, as renumbered and amended by Chapter 270, Laws of Utah 1998

**ENACTS:**

**63-38-11.5**, Utah Code Annotated 1953

**63-38e-101**, Utah Code Annotated 1953

**63-38e-102**, Utah Code Annotated 1953

**63-38e-201**, Utah Code Annotated 1953

**63-38e-202**, Utah Code Annotated 1953

**63-38e-203**, Utah Code Annotated 1953

63-38e-204, Utah Code Annotated 1953

REPEALS:

63-40-1, as last amended by Chapter 156, Laws of Utah 1996

63-40-2, as last amended by Chapter 16, Laws of Utah 2003

63-40-3, as last amended by Chapter 156, Laws of Utah 1996

63-40-4, as last amended by Chapter 156, Laws of Utah 1996

63-40-5, as last amended by Chapter 156, Laws of Utah 1996

63-40-6, as last amended by Chapter 156, Laws of Utah 1996

63-40-7, as enacted by Chapter 156, Laws of Utah 1996

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

Section 1. Section **9-1-205** is amended to read:

**9-1-205. Powers and duties of executive director.**

(1) The executive director, with the approval of the governor, may:

~~[(a) accept for and on behalf of, and bind the state to, any federal program in which the state is invited, permitted, or authorized to participate in the distribution, disbursement, or administration of any fund or service, advanced, offered, or contributed, in whole or in part, by the federal government for purposes consistent with the powers and duties of the department;]~~

(a) by following the procedures and requirements of Title 63, Chapter 38e, Federal Funds Procedures, seek federal grants, loans, or participation in federal programs;

(b) enter into lawful contracts or agreements with other states, any chamber of commerce organization, and any service club; and

(c) annually prepare and submit to the governor a budget of the department's financial requirements.

(2) If any federal program requires the expenditure of state funds as a condition to participation by the state in any fund, property, or service, with the governor's approval, the executive director shall expend whatever funds are necessary out of the money provided by the Legislature for the use of the department.

Section 2. Section **9-1-809** is amended to read:

**9-1-809. Commission duties.**

- (1) The commission shall, in the performance of its tasks and functions:
  - (a) ensure that its funding decisions meet all federal and state statutory requirements;
  - (b) recommend innovative, creative, statewide service programs to increase volunteer participation in all age groups and community-based problem-solving among diverse participants;
  - (c) develop and implement a centralized, organized system of obtaining information and technical support concerning volunteerism and community service recruitment, projects, training methods, materials, and activities throughout the state and share such information and support upon request;
  - (d) promote strong interagency collaboration as an avenue for maximizing resources and providing that model on the state level;
  - (e) provide public recognition and support of individual volunteer efforts and successful or promising private sector initiatives and public/private partnerships that address community needs;
  - (f) stimulate increased community awareness of the impact of volunteer services in the state;
  - (g) utilize local, state, and subject to Title 63, Chapter 38e, Federal Funds Procedures, federal resources to reinforce, expand, and initiate quality service programs;
  - (h) assist in the planning and implementation of volunteer programs;
  - (i) serve as the state's liaison and voice to appropriate national and state organizations that support its mission;
  - (j) develop a three-year comprehensive state and community service plan and establish state priorities;
  - (k) preselect programs and prepare applications to the corporation pursuant to the act;
  - (l) prepare service learning applications;
  - (m) administer the grants program and oversee and monitor the performance and progress of funded programs;

- (n) implement comprehensive, nonduplicative evaluation and monitoring systems;
  - (o) provide technical assistance to local nonprofit organizations and other entities;
  - (p) assist in the development of programs established in the act;
  - (q) develop mechanisms for recruitment and placement of people interested in participating in national service programs;
  - (r) assist in the provision of health care and child care benefits to participants under the act;
  - (s) make priority program recommendations to the corporation;
  - (t) coordinate its activities with the activities of other state agencies that administer federal block grants; and
  - (u) coordinate its activities with the activities of other volunteer service programs.
- (2) The commission may not directly operate or run any national service program receiving financial assistance, in any form, from the corporation.
- (3) The commission may, subject to Title 63, Chapter 38e, Federal Funds Procedures, receive and accept federal funds, and may receive and accept private gifts, donations, or funds from any source. All moneys shall be deposited with the state and shall be continuously available to the commission to carry out the purposes of this part.
- (4) (a) The commission shall establish a community volunteer training program to assist the state's school districts in implementing the literacy programs required under Section 53A-1-801.
- (b) The program shall focus on:
    - (i) recruitment of volunteers to assist public schools in reading improvement programs;
    - (ii) providing for the training of volunteers recruited under Subsection (4)(b)(i), which may include training in teaching phonetic decoding skills and phonemic awareness, to assist public schools and community based, not-for-profit literacy programs in accomplishing the literacy goals established in Section 53A-1-801;
    - (iii) providing grants to entities whose primary purpose is to support literacy by working with either school districts or individual schools to accomplish their literacy goals; and

(iv) providing materials and supplies which may be used by the commission or the public schools or both to help public education accomplish its literacy goals under Section 53A-1-801.

(c) The commission shall coordinate its activities under this Subsection (4) with other state and community entities engaged in child literacy programs.

(d) (i) The commission shall make an annual report to the State Board of Education on:

(A) how public monies were spent on the programs authorized under this Subsection (4);

and

(B) the number of volunteers recruited for and participating in the program.

(ii) The commission shall make its report by July 1, with the first report required by July 1, 2000.

Section 3. Section **9-4-202** is amended to read:

**9-4-202. Powers and duties of division.**

(1) The division shall:

(a) assist local governments and citizens in the planning, development, and maintenance of necessary public infrastructure and services;

(b) cooperate with, and provide technical assistance to, counties, cities, towns, regional planning commissions, area-wide clearinghouses, zoning commissions, parks or recreation boards, community development groups, community action agencies, and other agencies created for the purpose of aiding and encouraging an orderly, productive, and coordinated development of the state and its political subdivisions;

(c) assist the governor in coordinating the activities of state agencies which have an impact on the solution of community development problems and the implementation of community plans;

(d) serve as a clearinghouse for information, data, and other materials which may be helpful to local governments in discharging their responsibilities and provide information on available federal and state financial and technical assistance;

(e) carry out continuing studies and analyses of the problems faced by communities within the state and develop such recommendations for administrative or legislative action as appear

necessary;

(f) assist in funding affordable housing and addressing problems of homelessness;

(g) support economic development activities through grants, loans, and direct programs financial assistance;

(h) certify project funding at the local level in conformance with federal, state, and other requirements;

(i) utilize the capabilities and facilities of public and private universities and colleges within the state in carrying out its functions;

(j) assist and support local governments, community action agencies, and citizens in the planning, development, and maintenance of home weatherization, energy efficiency, and antipoverty activities; and

(k) assist and support volunteer efforts in the state.

(2) The division may:

~~[(a) accept for and on behalf of, and bind the state to, any federal program in which the state is invited, permitted, or authorized to participate in the distribution, disbursement, or administration of any fund or service advanced, offered, or contributed in whole or in part, by the federal government for purposes consistent with the powers and duties of the department;]~~

(a) by following the procedures and requirements of Title 63, Chapter 38e, Federal Funds Procedures, seek federal grants, loans, or participation in federal programs;

(b) if any federal program requires the expenditure of state funds as a condition to participation by the state in any fund, property, or service, with the governor's approval, expend whatever funds are necessary out of the money provided by the Legislature for the use of the department;

(c) in accordance with Part 13, Domestic Violence Shelters, assist in developing, constructing, and improving shelters for victims of domestic violence, as described in Section 77-36-1, through loans and grants to nonprofit and governmental entities; and

(d) assist, when requested by a county or municipality, in the development of accessible housing.

Section 4. Section **9-8-405** is amended to read:

**9-8-405. Federal funds -- Agreements on standards and procedures.**

[The] By following the procedures and requirements of Title 63, Chapter 38e, Federal Funds Procedures, the division may accept and administer federal funds provided under the provisions of the National Historic Preservation Act of 1966, the Land and Water Conservation Act as amended, and subsequent legislation directed toward the encouragement of historic preservation, and to enter into those agreements on professional standards and procedures required by participation in the National Historic Preservation Act of 1966 and the National Register Office.

Section 5. Section **30-3-38** is amended to read:

**30-3-38. Pilot Program for Expedited Parent-time Enforcement.**

(1) There is established an Expedited Parent-time Enforcement Pilot Program in the third judicial district to be administered by the Administrative Office of the Courts from July 1, 2003, to July 1, 2007.

(2) As used in this section:

(a) "Mediator" means a person who:

(i) is qualified to mediate parent-time disputes under criteria established by the Administrative Office of the Courts; and

(ii) agrees to follow billing guidelines established by the Administrative Office of the Courts and this section.

(b) "Services to facilitate parent-time" or "services" means services designed to assist families in resolving parent-time problems through:

(i) counseling;

(ii) supervised parent-time;

(iii) neutral drop-off and pick-up;

(iv) educational classes; and

(v) other related activities.

(3) (a) Under this pilot program, if a parent files a motion in the third district court



alleging that court-ordered parent-time rights are being violated, the clerk of the court, after assigning the case to a judge, shall refer the case to the administrator of this pilot program for assignment to a mediator.

(b) Upon receipt of a case, the mediator shall:

(i) meet with the parents to address parent-time issues within 15 days of the motion being filed;

(ii) assess the situation;

(iii) facilitate an agreement on parent-time between the parents; and

(iv) determine whether a referral to a service provider under Subsection (3)(c) is warranted.

(c) While a case is in mediation, a mediator may refer the parents to a service provider designated by the Department of Human Services for services to facilitate parent-time if:

(i) the services may be of significant benefit to the parents; or

(ii) (A) a mediated agreement between the parents is unlikely; and

(B) the services may facilitate an agreement.

(d) At any time during mediation, a mediator shall terminate mediation and transfer the case to the administrator of the pilot program for referral to the judge or court commissioner to whom the case was assigned under Subsection (3)(a) if:

(i) a written agreement between the parents is reached; or

(ii) the parents are unable to reach an agreement through mediation and:

(A) the parents have received services to facilitate parent-time;

(B) both parents object to receiving services to facilitate parent-time; or

(C) the parents are unlikely to benefit from receiving services to facilitate parent-time.

(e) Upon receiving a case from the administrator of the pilot program, a judge or court commissioner may:

(i) review the agreement of the parents and, if acceptable, sign it as an order;

(ii) order the parents to receive services to facilitate parent-time;

(iii) proceed with the case; or

(iv) take other appropriate action.

(4) (a) If a parent makes a particularized allegation of physical or sexual abuse of a child who is the subject of a parent-time order against the other parent or a member of the other parent's household to a mediator or service provider, the mediator or service provider shall immediately report that information to:

(i) the judge assigned to the case who may immediately issue orders and take other appropriate action to resolve the allegation and protect the child; and

(ii) the Division of Child and Family Services within the Department of Human Services in the manner required by Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect Reporting Requirements.

(b) If an allegation under Subsection (4)(a) is made against a parent with parent-time rights or a member of that parent's household, parent-time by that parent shall, pursuant to an order of the court, be supervised until:

(i) the allegation has been resolved; or

(ii) a court orders otherwise.

(c) Notwithstanding an allegation under Subsection (4)(a), a mediator may continue to mediate parent-time problems and a service provider may continue to provide services to facilitate parent-time unless otherwise ordered by a court.

(5) (a) The Department of Human Services may contract with one or more entities in accordance with Title 63, Chapter 56, Utah Procurement Code, to provide:

(i) services to facilitate parent-time;

(ii) case management services; and

(iii) administrative services.

(b) An entity who contracts with the Department of Human Services under Subsection (5)(a) shall:

(i) be qualified to provide one or more of the services listed in Subsection (5)(a); and

(ii) agree to follow billing guidelines established by the Department of Human Services and this section.

(6) (a) Except as provided in Subsection (6)(b), the cost of mediation shall be:

(i) reduced to a sum certain;

(ii) divided equally between the parents; and

(iii) charged against each parent taking into account the ability of that parent to pay under billing guidelines adopted in accordance with this section.

(b) A judge may order a parent to pay an amount in excess of that provided for in Subsection (6)(a) if the parent:

(i) failed to participate in good faith in mediation or services to facilitate parent-time; or

(ii) made an unfounded assertion or claim of physical or sexual abuse of a child.

(c) (i) The cost of mediation and services to facilitate parent-time may be charged to parents at periodic intervals.

(ii) Mediation and services to facilitate parent-time may only be terminated on the ground of nonpayment if both parents are delinquent.

(7) If a parent fails to cooperate in good faith in mediation or services to facilitate parent-time, a court may order, in subsequent proceedings, a temporary change in custody or parent-time.

(8) (a) The Judicial Council may make rules to implement and administer the provisions of this pilot program related to mediation.

(b) The Department of Human Services may make rules to implement and administer the provisions of this pilot program related to services to facilitate parent-time.

(9) (a) The Administrative Office of the Courts shall adopt outcome measures to evaluate the effectiveness of the mediation component of this pilot program. Progress reports shall be provided to the Judiciary Interim Committee as requested by the committee. At least once during this pilot program, the Administrative Office of the Courts shall present to the committee the results of a survey that measures the effectiveness of the program in terms of increased compliance with parent-time orders and the responses of interested persons.

(b) The Department of Human Services shall adopt outcome measures to evaluate the effectiveness of the services component of this pilot program. Progress reports shall be provided

to the Judiciary Interim Committee as requested by the committee.

(c) The Administrative Office of the Courts and the Department of Human Services may adopt joint outcome measures and file joint reports to satisfy the requirements of Subsections (8)(a) and (b).

(10) (a) The Department of Human Services shall, by following the procedures and requirements of Title 63, Chapter 38e, Federal Funds Procedures, apply for federal funds as available.

(b) This pilot program shall be funded through funds received under Subsection (10)(a).

Section 6. Section **35A-5-102** is amended to read:

**35A-5-102. Federal grants for retraining.**

(1) [~~The~~] By following the procedures and requirements of Title 63, Chapter 38e, Federal Funds Procedures, the state, through the Division of Employment Development may and is encouraged to apply for retraining, community assistance, or technology transfer funds available through:

- (a) the United States Department of Defense;
- (b) United States Department of Labor; or
- (c) other appropriate federal offices or departments.

(2) In applying for federal funds, the state through its Division of Employment Development or other appropriate office may inform the federal government of state matching or enhancement funds if those funds are available under Section 67-1-12.

Section 7. Section **53A-24-114** is amended to read:

**53A-24-114. Governor's Committee on Employment of People with Disabilities.**

(1) There is created the Governor's Committee on Employment of People with Disabilities.

(2) (a) The State Board of Education shall appoint at least twelve members to the committee.

(b) The State Board of Education shall ensure that the committee includes members from the public and private sectors who represent:

- (i) business and industry;
- (ii) individuals with disabilities and their advocates;
- (iii) job training and placement;
- (iv) state agencies, such as the Department of Human Resource Management, the

Department of Workforce Services, Public Education, Higher Education, and the Department of Human Services;

- (v) labor;
- (vi) veterans;
- (vii) medical;
- (viii) health;
- (ix) insurance;
- (x) media; and
- (xi) the general public.

(c) (i) Except as provided in Subsection (2)(c)(ii), the State Board of Education shall appoint committee members to serve four-year terms.

(ii) In making the initial appointments to the committee, the State Board of Education shall appoint approximately [~~one-half~~] 1/2 of the members to two-year terms and [~~one-half~~] 1/2 of the members to four-year terms.

(d) Committee members shall serve until their successors are appointed and qualified.

(e) The State Board of Education shall fill any vacancy that occurs on the committee for any reason by appointing a person according to the procedures of this section for the unexpired term of the vacated member.

(f) The State Board of Education shall select a chair from the membership.

(g) Seven members of the committee are a quorum for the transaction of business.

(3) (a) The committee shall:

(i) promote employment opportunities for individuals with disabilities;

(ii) serve as the designated state liaison to the President's Committee on Employment of People with Disabilities;

(iii) provide training and technical assistance to employers in implementing the Americans with Disabilities Act;

(iv) develop and disseminate appropriate information through workshops, meetings, and other requests in response to needs to employers and others regarding employment of individuals with disabilities;

(v) establish contacts with various community representatives to identify and resolve barriers to full participation in employment and community life;

(vi) formally recognize exemplary contributions in the areas of employment, job placement, training, rehabilitation, support services, medicine, media or public relations, and personal achievements made by individuals with disabilities;

(vii) advise, encourage, and motivate individuals with disabilities who are preparing for or seeking employment to reach their full potential as qualified employees;

(viii) advocate for policies and practices that promote full and equal rights for individuals with disabilities;

(ix) advise the State Board of Education and the governor on issues that affect employment and other requests for information on disability issues;

(x) prepare an annual report on the progress, accomplishments, and future goals of the committee and present the report to the State Board of Education and the governor; and

(xi) establish and maintain a cooperative liaison between the governor's office, the executive director of the committee, and the executive director of the Utah State Office of Rehabilitation to fulfill the committee's purpose.

(b) The committee may, by following the procedures and requirements of Title 63, Chapter 38e, Federal Funds Procedures, receive and accept federal funds, and may receive and accept state funds, ~~and~~ private gifts, donations, and funds from any source to carry out its purposes.

(4) The director of the State Office of Rehabilitation shall appoint a person to staff the committee.

Section 8. Section **62A-1-112** is amended to read:

**62A-1-112. Participation in federal programs -- Federal grants -- Authority of executive director.**

(1) The executive director may, [~~with the approval of the governor, may accept on behalf of this state, and bind the state by such acceptance, any executive or legislative provision promulgated or enacted by the federal government or by any agency thereof, whereby the state of Utah is invited, permitted, or authorized to participate in the distribution, disbursement, or administration of any fund or service, which is advanced, offered or contributed in whole or in part by the federal government for purposes consistent with the powers and duties of the department~~] by following the procedures and requirements of Title 63, Chapter 38e, Federal Funds Procedures, seek federal grants, loans, or participation in federal programs.

(2) Wherever state law authorizes a board, director, division, or office of the department to accept any grant, fund, or service which is to be advanced or contributed in whole or in part by the federal government, that acceptance shall be subject to the approval or disapproval of the executive director. All applications for federal grants or other federal financial assistance for the support of any department program is subject to the approval of the executive director.

(3) If any executive or legislative provision of the federal government so requires, as a condition to participation by this state in any fund, property, or service, the executive director, with the governor's approval, shall expend whatever funds are necessary out of the moneys provided by the Legislature for use and disbursement by that department.

Section 9. Section **62A-3-104** is amended to read:

**62A-3-104. Authority of division.**

(1) The division is the sole state agency, as defined by the Older Americans Act of 1965, 42 U.S.C. 3001 et seq., to serve as an effective and visible advocate for the aging and adult population of this state, to develop and administer a state plan under the policy direction of the board, and to take primary responsibility for state activities relating to provisions of the Older Americans Act of 1965, as amended.

(2) (a) The division has authority to designate planning and service areas for the state, and to designate an area agency on aging within each planning and service area to design and

implement a comprehensive and coordinated system of services and programs for the aged within appropriations from the Legislature.

(b) Designation as an area agency on aging may be withdrawn:

(i) upon request of the area agency on aging; or

(ii) upon noncompliance with the provisions of the Older Americans Act of 1965, 42 U.S.C. 3001 et seq., the federal regulations enacted under that act, the provisions of this chapter, or the rules, policies, or procedures established by the division.

(3) (a) The division has the authority to designate planning and service areas for the state and to designate an area agency on high risk adults within each planning and service area in accordance with Subsection (3)(b) to design and implement a comprehensive and coordinated system of case management and programs for high risk adults within appropriations from the Legislature.

(b) Before October 1, 1998, the division shall designate as the area agency on high risk adults in a planning and service area:

(i) the area agency on aging that operates within the same geographic area if that agency has requested, before July 1, 1998, to expand its current contract with the division to include the responsibility of:

(A) being the area agency on high risk adults; or

(B) operating the area agency on high risk adults through joint cooperation with one or more existing area agencies on aging without reducing geographical coverage in any service area; or

(ii) a public or private nonprofit agency or office if the area agency on aging that operates within the same geographic area has not made a request in accordance with Subsection (3)(b)(i).

(c) Area agencies on high risk adults shall be in operation before July 1, 1999. The division's efforts to establish area agencies on high risk adults shall start with counties with a population of more than 150,000 people.

(d) Designation as an area agency on high risk adults may be withdrawn:

(i) upon request by the area agency; or



(ii) upon noncompliance with state or federal laws, or rules, policies, or procedures established by the division.

(4) The division [~~has authority to~~] may, by following the procedures and requirements of Title 63, Chapter 38e, Federal Funds Procedures, seek federal grants, loans, or participation in federal programs and receive and distribute state and federal funds for the division's programs and services to the aging and adult populations of the state.

(5) The division has authority to establish, either directly or by contract, programs of advocacy, monitoring, evaluation, technical assistance, and public education to enhance the quality of life for aging and adult citizens of the state.

(6) In accordance with the rules of the division and Title 63, Chapter 56, Utah Procurement Code, the division may:

(a) contract with the governing body of an area agency to provide a comprehensive program of services; and

(b) contract with public and private entities for special services.

(7) The division has authority to provide for collection, compilation, and dissemination of information, statistics, and reports relating to issues facing aging and adult citizens.

(8) The division has authority to prepare and submit reports regarding the operation and administration of the division to the department, the Legislature, and the governor, as requested.

(9) The division shall:

(a) implement and enforce policies established by the board governing all aspects of the division's programs for aging and adult persons in the state;

(b) monitor and evaluate programs provided by or under contract with the division, area agencies, and any entity that receives funds from an area agency to ensure compliance with all applicable state and federal statutes, policies, and procedures;

(c) examine expenditures of public funds;

(d) withhold funds from programs based on contract noncompliance;

(e) review and approve plans of area agencies in order to ensure compliance with division policies and to ensure a statewide comprehensive program;

(f) promote and establish cooperative relationships with state and federal agencies, social and health agencies, education and research organizations, and other related groups in order to further programs for aging and adult persons, and prevent duplication of services;

(g) advocate for the aging and adult populations;

(h) promote and conduct research on the problems and needs of aging and adult persons, and submit recommendations for changes in policies, programs, and funding to the governor and the Legislature; and

(i) (i) accept contributions to and administer the funds contained in the "Out and About" Homebound Transportation Assistance Fund created in Section 62A-3-110; and

(ii) make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, to facilitate the administration of the "Out and About" Homebound Transportation Assistance Fund in accordance with Section 62A-3-110.

Section 10. Section **63-34-15** is amended to read:

**63-34-15. Outdoor recreation facilities -- Participation in federal programs.**

(1) The Legislature finds that the state of Utah and its political subdivisions should enjoy the benefits of federal assistance programs for the planning and development of the outdoor recreation resources of the state, including the acquisition of lands and waters and interests [therein] in land and water. ~~[It is the purpose of this act to provide authority to enable the state of Utah and its political subdivisions to participate in the benefits of such programs, by and through the executive director of natural resources, under the direction of the governor, or such other agent or agencies as the governor may from time to time designate.]~~

(2) To accomplish those purposes, the executive director of the Department of Natural Resources may, by following the procedures and requirements of Title 63, Chapter 38e, Federal Funds Procedures, seek federal grants, loans, or participation in federal programs.

Section 11. Section **63-34-17** is amended to read:

**63-34-17. Outdoor recreation facilities -- Powers of executive director to obtain federal aid.**

The executive director of natural resources may, by following the procedures and requirements of Title 63, Chapter 38e, Federal Funds Procedures, apply to any appropriate agency or officer of the United States for participation in or the receipt of aid from any federal program respecting outdoor recreation. He may, in cooperation with other state agencies and after obtaining the approvals required by Title 63, Chapter 38e, Federal Funds Procedures, enter into contracts and agreements with the United States or any appropriate agency thereof [~~with the approval of the governor~~], keep financial and other records relating thereto, and furnish to appropriate officials and agencies of the United States such reports and information as may be reasonably necessary to enable such officials and agencies to perform their duties under such programs. In connection with obtaining the benefits of any such program, the executive director of natural resources shall coordinate the department's activities with and represent the interests of all agencies and subdivisions of the state having interests in the planning, development, and maintenance of outdoor recreation resources and facilities.

Section 12. Section **63-34-101** is amended to read:

**63-34-101. Utah Energy Office created -- Utah Energy Office duties.**

(1) There is created within the department the Utah Energy Office.

(2) The Utah Energy Office shall:

(a) by following the procedures and requirements of Title 63, Chapter 38e, Federal Funds Procedures, seek federal grants, loans, or participation in federal programs, and, in accordance with applicable federal program guidelines, administer federally funded state programs regarding:

(i) renewable energy;

(ii) energy efficiency; and

(iii) energy conservation;

(b) coordinate and facilitate the development and implementation of programs:

(i) for state buildings; and

(ii) relating to:

(A) procurement of energy;

(B) consumption of energy;

- (C) conservation of energy; and
- (D) efficient use of energy;
- (c) if requested by the governor, prepare a state energy emergency plan in accordance with Title 63, Chapter 53a, Energy Emergency Powers of Governor;
- (d) participate in regulatory proceedings as appropriate to promote the development, conservation, and efficient use of energy;
- (e) coordinate state governmental functions regarding energy development and use;
- (f) facilitate the development and implementation of policies and programs in the state related to:
  - (i) energy production;
  - (ii) processing of energy;
  - (iii) use of energy; and
  - (iv) energy related technology;
- (g) monitor federal laws and regulations related to:
  - (i) energy development;
  - (ii) processing of energy; or
  - (iii) use of energy;
- (h) recommend state policy positions regarding energy to:
  - (i) the governor; or
  - (ii) the Legislature;
- (i) represent the state on regional and national energy matters:
  - (i) at the initiative of the office; or
  - (ii) as requested by the governor;
- (j) coordinate and consolidate energy resource data collection throughout state government;
- (k) provide the Legislature and the governor with:
  - (i) an annual report addressing the current status of energy markets in the state; and
  - (ii) an independent assessment of energy issues; and

- (l) perform forecasts of state-level:
  - (i) energy production;
  - (ii) energy consumption; and
  - (iii) energy prices.

Section 13. Section **63-38-2 (Superseded 07/01/04)** is amended to read:

**63-38-2 (Superseded 07/01/04). Governor to submit budget to Legislature -- Contents -- Preparation -- Appropriations based on current tax laws and not to exceed estimated revenues.**

(1) (a) The governor shall, within three days after the convening of the Legislature in the annual general session, submit a budget for the ensuing fiscal year by delivering it to the presiding officer of each house of the Legislature together with a schedule for all of the proposed appropriations of the budget, clearly itemized and classified.

(b) The budget message shall include:

- (i) a projection of estimated revenues and expenditures for the next fiscal year[-]; and
- (ii) the source of all direct, indirect, or in-kind matching funds for all federal grants or assistance programs included in the budget.

(2) At least 34 days before the submission of any budget, the governor shall deliver a confidential draft copy of his proposed budget recommendations to the Office of the Legislative Fiscal Analyst.

(3) (a) The budget shall contain a complete plan of proposed expenditures and estimated revenues for the next fiscal year based upon the current fiscal year state tax laws and rates.

(b) The budget may be accompanied by a separate document showing proposed expenditures and estimated revenues based on changes in state tax laws or rates.

(4) The budget shall be accompanied by a statement showing:

- (a) the revenues and expenditures for the last fiscal year;
- (b) the current assets, liabilities, and reserves, surplus or deficit, and the debts and funds of the state;
- (c) an estimate of the state's financial condition as of the beginning and the end of the

period covered by the budget;

(d) a complete analysis of lease with an option to purchase arrangements entered into by state agencies;

(e) the recommendations for each state agency for new full-time employees for the next fiscal year; which recommendation should be provided also to the State Building Board under Subsection 63A-5-103(2);

(f) any explanation the governor may desire to make as to the important features of the budget and any suggestion as to methods for the reduction of expenditures or increase of the state's revenue; and

(g) the information detailing certain regulatory fee increases required by Section 63-38-3.2.

(5) The budget shall include an itemized estimate of the appropriations for:

(a) the Legislative Department as certified to the governor by the president of the Senate and the speaker of the House;

(b) the Executive Department;

(c) the Judicial Department as certified to the governor by the state court administrator;

(d) payment and discharge of the principal and interest of the indebtedness of the state;

(e) the salaries payable by the state under the Utah Constitution or under law for the lease agreements planned for the next fiscal year;

(f) other purposes that are set forth in the Utah Constitution or under law; and

(g) all other appropriations.

(6) Deficits or anticipated deficits shall be included in the budget.

(7) (a) (i) For the purpose of preparing and reporting the budget, the governor shall require from the proper state officials, including public and higher education officials, all heads of executive and administrative departments and state institutions, bureaus, boards, commissions, and agencies expending or supervising the expenditure of the state moneys, and all institutions applying for state moneys and appropriations, itemized estimates of revenues and expenditures.

(ii) (A) The governor may also require other information under these guidelines and at

times as the governor may direct.

(B) These guidelines may include a requirement for program productivity and performance measures, where appropriate, with emphasis on outcome indicators.

(b) The estimate for the Legislative Department as certified by the presiding officers of both houses shall be included in the budget without revision by the governor.

(c) The estimate for the Judicial Department, as certified by the state court administrator, shall also be included in the budget without revision, but the governor may make separate recommendations on it.

(d) The governor may require the attendance at budget meetings of representatives of public and higher education, state departments and institutions, and other institutions or individuals applying for state appropriations.

(e) The governor may revise all estimates, except those relating to the Legislative Department, the Judicial Department, and those providing for the payment of principal and interest to the state debt and for the salaries and expenditures specified by the Utah Constitution or under the laws of the state.

(8) The total appropriations requested for expenditures authorized by the budget may not exceed the estimated revenues from taxes, fees, and all other sources for the next ensuing fiscal year.

(9) If any item of the budget as enacted is held invalid upon any ground, the invalidity does not affect the budget itself or any other item in it.

(10) (a) In submitting the budgets for the Departments of Health and Human Services and the Office of the Attorney General, the governor shall consider a separate recommendation in his budget for funds to be contracted to:

(i) local mental health authorities under Section 62A-15-110;

(ii) local substance abuse authorities under Section 62A-15-110;

(iii) area agencies under Section 62A-3-104.2;

(iv) programs administered directly by and for operation of the Divisions of Substance Abuse and Mental Health and Aging and Adult Services;

(v) local health departments under Title 26A, Chapter 1, Local Health ~~[Department Act]~~  
Departments; and

(vi) counties for the operation of Children's Justice Centers under Section 67-5b-102.

(b) In his budget recommendations under Subsections (10)(a)(i), (ii), and (iii), the governor shall consider an amount sufficient to grant local health departments, local mental health authorities, local substance abuse authorities, and area agencies the same percentage increase for wages and benefits that he includes in his budget for persons employed by the state.

(c) If the governor does not include in his budget an amount sufficient to grant the increase described in Subsection (10)(b), he shall include a message to the Legislature regarding his reason for not including that amount.

(11) (a) In submitting the budget for the Division of Services for People with Disabilities, the Division of Child and Family Services, and the Division of Youth Corrections within the Department of Human Services, the governor shall consider an amount sufficient to grant employees of corporations that provide direct services under contract with those divisions, the same percentage increase for cost-of-living that he includes in his budget for persons employed by the state.

(b) If the governor does not include in his budget an amount sufficient to grant the increase described in Subsection (11)(a), he shall include a message to the Legislature regarding his reason for not including that amount.

(12) (a) The Families, Agencies, and Communities Together Council may propose to the governor under Subsection 63-75-4(4)(e) a budget recommendation for collaborative service delivery systems operated under Section 63-75-6.5.

(b) The Legislature may, through a specific program schedule, designate funds appropriated for collaborative service delivery systems operated under Section 63-75-6.5.

(13) The governor shall include in his budget the state's portion of the budget for the Utah Communications Agency Network established in Title 63C, Chapter 7, Utah Communications Agency Network Act.

(14) In adopting a budget for each fiscal year, the Legislature shall consider an amount



sufficient to grant local health departments, local mental health authorities, local substance abuse authorities, and area agencies on aging the same percentage increase for wages and benefits that is included in the budget for persons employed by the state.

Section 14. Section **63-38-2 (Effective 07/01/04)** is amended to read:

**63-38-2 (Effective 07/01/04). Governor to submit budget to Legislature -- Contents -- Preparation -- Appropriations based on current tax laws and not to exceed estimated revenues.**

(1) (a) The governor shall, within three days after the convening of the Legislature in the annual general session, submit a budget for the ensuing fiscal year by delivering it to the presiding officer of each house of the Legislature together with a schedule for all of the proposed appropriations of the budget, clearly itemized and classified.

(b) The budget message shall include:

(i) a projection of estimated revenues and expenditures for the next fiscal year[-]; and  
(ii) the source of all direct, indirect, or in-kind matching funds for all federal grants or assistance programs included in the budget.

(2) At least 34 days before the submission of any budget, the governor shall deliver a confidential draft copy of his proposed budget recommendations to the Office of the Legislative Fiscal Analyst.

(3) (a) The budget shall contain a complete plan of proposed expenditures and estimated revenues for the next fiscal year based upon the current fiscal year state tax laws and rates.

(b) The budget may be accompanied by a separate document showing proposed expenditures and estimated revenues based on changes in state tax laws or rates.

(4) The budget shall be accompanied by a statement showing:

(a) the revenues and expenditures for the last fiscal year;  
(b) the current assets, liabilities, and reserves, surplus or deficit, and the debts and funds of the state;

(c) an estimate of the state's financial condition as of the beginning and the end of the period covered by the budget;

(d) a complete analysis of lease with an option to purchase arrangements entered into by state agencies;

(e) the recommendations for each state agency for new full-time employees for the next fiscal year; which recommendation should be provided also to the State Building Board under Subsection 63A-5-103(2);

(f) any explanation the governor may desire to make as to the important features of the budget and any suggestion as to methods for the reduction of expenditures or increase of the state's revenue; and

(g) the information detailing certain regulatory fee increases required by Section 63-38-3.2.

(5) The budget shall include an itemized estimate of the appropriations for:

(a) the Legislative Department as certified to the governor by the president of the Senate and the speaker of the House;

(b) the Executive Department;

(c) the Judicial Department as certified to the governor by the state court administrator;

(d) payment and discharge of the principal and interest of the indebtedness of the state;

(e) the salaries payable by the state under the Utah Constitution or under law for the lease agreements planned for the next fiscal year;

(f) other purposes that are set forth in the Utah Constitution or under law; and

(g) all other appropriations.

(6) Deficits or anticipated deficits shall be included in the budget.

(7) (a) (i) For the purpose of preparing and reporting the budget, the governor shall require from the proper state officials, including public and higher education officials, all heads of executive and administrative departments and state institutions, bureaus, boards, commissions, and agencies expending or supervising the expenditure of the state moneys, and all institutions applying for state moneys and appropriations, itemized estimates of revenues and expenditures.

(ii) (A) The governor may also require other information under these guidelines and at times as the governor may direct.

(B) These guidelines may include a requirement for program productivity and performance measures, where appropriate, with emphasis on outcome indicators.

(b) The estimate for the Legislative Department as certified by the presiding officers of both houses shall be included in the budget without revision by the governor.

(c) The estimate for the Judicial Department, as certified by the state court administrator, shall also be included in the budget without revision, but the governor may make separate recommendations on it.

(d) The governor may require the attendance at budget meetings of representatives of public and higher education, state departments and institutions, and other institutions or individuals applying for state appropriations.

(e) The governor may revise all estimates, except those relating to the Legislative Department, the Judicial Department, and those providing for the payment of principal and interest to the state debt and for the salaries and expenditures specified by the Utah Constitution or under the laws of the state.

(8) The total appropriations requested for expenditures authorized by the budget may not exceed the estimated revenues from taxes, fees, and all other sources for the next ensuing fiscal year.

(9) If any item of the budget as enacted is held invalid upon any ground, the invalidity does not affect the budget itself or any other item in it.

(10) (a) In submitting the budgets for the Departments of Health and Human Services and the Office of the Attorney General, the governor shall consider a separate recommendation in his budget for funds to be contracted to:

- (i) local mental health authorities under Section 62A-15-110;
- (ii) local substance abuse authorities under Section 62A-15-110;
- (iii) area agencies under Section 62A-3-104.2;
- (iv) programs administered directly by and for operation of the Divisions of Substance Abuse and Mental Health and Aging and Adult Services;
- (v) local health departments under Title 26A, Chapter 1, Local Health [~~Department Act~~]

Departments; and

(vi) counties for the operation of Children's Justice Centers under Section 67-5b-102.

(b) In his budget recommendations under Subsections (10)(a)(i), (ii), and (iii), the governor shall consider an amount sufficient to grant local health departments, local mental health authorities, local substance abuse authorities, and area agencies the same percentage increase for wages and benefits that he includes in his budget for persons employed by the state.

(c) If the governor does not include in his budget an amount sufficient to grant the increase described in Subsection (10)(b), he shall include a message to the Legislature regarding his reason for not including that amount.

(11) (a) In submitting the budget for the Division of Services for People with Disabilities, the Division of Child and Family Services, and the Division of Juvenile Justice Services within the Department of Human Services, the governor shall consider an amount sufficient to grant employees of corporations that provide direct services under contract with those divisions, the same percentage increase for cost-of-living that he includes in his budget for persons employed by the state.

(b) If the governor does not include in his budget an amount sufficient to grant the increase described in Subsection (11)(a), he shall include a message to the Legislature regarding his reason for not including that amount.

(12) (a) The Families, Agencies, and Communities Together Council may propose to the governor under Subsection 63-75-4(4)(e) a budget recommendation for collaborative service delivery systems operated under Section 63-75-6.5.

(b) The Legislature may, through a specific program schedule, designate funds appropriated for collaborative service delivery systems operated under Section 63-75-6.5.

(13) The governor shall include in his budget the state's portion of the budget for the Utah Communications Agency Network established in Title 63C, Chapter 7, Utah Communications Agency Network Act.

(14) In adopting a budget for each fiscal year, the Legislature shall consider an amount sufficient to grant local health departments, local mental health authorities, local substance abuse

authorities, and area agencies on aging the same percentage increase for wages and benefits that is included in the budget for persons employed by the state.

Section 15. Section **63-38-11.5** is enacted to read:

**63-38-11.5. Reduction in federal funds -- Agencies to reduce budgets.**

(1) In any fiscal year in which federal grants to be received by state agencies, departments, divisions, or institutions are reduced below the level estimated in the appropriations acts for that year, the programs supported by those grants must be reduced commensurate with the amount of the federal reduction unless the Legislature appropriates state funds to offset the loss in federal funding.

(2) This program modification shall be reported to the Legislature through the Executive Appropriations Committee and the Office of the Legislative Fiscal Analyst.

Section 16. Section **63-38d-301** is amended to read:

**63-38d-301. Budget duties of the director and office.**

(1) The director and the office shall:

(a) comply with the procedures and requirements of Title 63, Chapter 38, Budgetary Procedures Act;

(b) under the direct supervision of the governor, assist the governor in the preparation of the governor's budget recommendations;

(c) advise the governor with regard to approval or revision of agency work programs as specified in Section 63-38-11; and

(d) perform other duties and responsibilities as assigned by the governor.

(2) (a) The director of the Governor's Office of Planning and Budget or the director's designee is the Federal Assistance Management Officer.

(b) In acting as the Federal Assistance Management Officer, the director or designee shall:

(i) study the administration and effect of federal assistance programs in the state and advise the governor and the Legislature, through the Office of Legislative Fiscal Analyst and the Executive Appropriations Committee, of alternative recommended methods and procedures for

the administration of these programs;

(ii) assist in the coordination of federal assistance programs that involve or are administered by more than one state agency; and

(iii) analyze and advise on applications for new federal assistance programs submitted to the governor for approval as required by Chapter 38e, Federal Funds Procedures.

Section 17. Section **63-38e-101** is enacted to read:

**CHAPTER 38e. FEDERAL FUNDS PROCEDURES**

**Part 1. General Provisions**

**63-38e-101. Definitions.**

(1) As used in this chapter:

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

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

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

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

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

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

(c) "Federal funds reauthorization" means the formal submission from an agency to the federal government:

(i) applying for or seeking reauthorization of federal funds; or

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

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

(i) the amount of money that is being requested or is available to be received by the state

from the federal government for each federal funds reauthorization or new federal funds request;

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

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

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

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

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

(f) "New federal funds" means:

(i) federal assistance or other federal funds that are available from the federal government and that the state is not currently receiving;

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

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

(A) add additional permanent full-time employees, permanent part-time employees, or combination of additional permanent full-time employees and permanent part-time employees;

(B) increase the amount of state matching funds required to receive the federal funds or participate in the federal program; or

(C) comply with new requirements in order to receive the federal funds or participate in the federal program.

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

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

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

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

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

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

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

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

Section 18. Section **63-38e-102** is enacted to read:

**63-38e-102. Scope and applicability of chapter.**

(1) Except as provided in Subsection (2), and except as otherwise provided by a statute superseding provisions of this chapter by explicit reference to this chapter, the provisions of this chapter apply to each agency and govern each federal funds request.

(2) This chapter does not govern federal funds requests for:

(a) the Medical Assistance Program, commonly known as Medicaid;

(b) the Children's Health Insurance Program;

(c) the Women, Infant, and Children program;

(d) the Temporary Assistance to Needy Families program;

(e) Social Security Act monies;



(f) the Substance Abuse Prevention and Treatment program;

(g) Child Care Block grants;

(h) Food Stamp Administration and Training monies;

(i) Unemployment Insurance Operations monies;

(j) Federal Highway Administration monies;

(k) the Utah National Guard; or

(l) pass-through federal funds.

(3) The governor need not seek legislative review or approval of federal funds received by the state when the governor has declared a state of emergency and the federal funds are received to assist disaster victims under Subsection 63-5a-3(2).

Section 19. Section **63-38e-201** is enacted to read:

**Part 2. Federal Funds Review and Approval**

**63-38e-201. Legislative Appropriation Subcommittees to review certain federal funds reauthorizations -- Executive Appropriations review -- Legislative approval.**

(1) The Governor's Office of Planning and Budget shall annually prepare and submit a federal funds request summary for each agency to the Legislative Fiscal Analyst at the same time the governor submits the confidential draft budget under Section 63-38-2.

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

(b) Each legislative appropriations subcommittee shall review the federal funds request summary and may:

(i) recommend that the agency accept the federal funds or participate in the federal program for the fiscal year under consideration; or

(ii) recommend that the agency not accept the federal funds or not participate in the federal program for the fiscal year under consideration.

(3) The Legislative Executive Appropriations Committee shall:

(a) review each subcommittee's recommendation;

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

(c) direct the Legislative Fiscal Analyst to include those federal funds and federal programs that the committee approves in the annual appropriations act for approval by the Legislature.

Section 20. Section **63-38e-202** is enacted to read:

**63-38e-202. Governor to approve certain new federal funds requests.**

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

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

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

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

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

(i) the Legislature's Executive Appropriations Committee;

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

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

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

(3) (a) If the governor or the governor's designee approves the new federal funds request,

the executive branch agency may accept the new federal funds or participate in the new federal program.

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

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

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

Section 21. Section **63-38e-203** is enacted to read:

**63-38e-203. Judicial council to approve certain new federal funds requests.**

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

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

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

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

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

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

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

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

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

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

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

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

(a) withdraw the new federal funds request;

(b) return the federal funds;

(c) withdraw from the federal program; or

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

Section 22. Section **63-38e-204** is enacted to read:

**63-38e-204. Legislative review and approval of certain new federal funds requests.**

(1) As used in this section:

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

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

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

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

(b) "Medium impact federal funds request" means a new federal funds request that will or

could:

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

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

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

(2) (a) Before obligating the state to accept or receive new federal funds or to participate in a new federal program under a medium impact federal funds request, and no later than three months after submitting a medium impact federal funds request, and, where possible, before formally submitting the medium impact federal funds request, an agency shall:

(i) submit the federal funds request summary to the governor or the Judicial Council, as appropriate, for approval or rejection; and

(ii) if the governor or Judicial Council approves the new federal funds request, submit the federal funds request summary to the Legislative Executive Appropriations Committee for its review and recommendations.

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

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

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

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

(3) (a) Before obligating the state to accept or receive new federal funds or to participate in a new federal program under a high impact federal funds request, and no later than three months after submitting a high impact federal funds request, and, where possible, before formally

submitting the high impact federal funds request, an agency shall:

(i) submit the federal funds request summary to the governor or Judicial Council, as appropriate, for approval or rejection; and

(ii) if the governor or Judicial Council approves the new federal funds request, submit the federal funds request summary to the Legislature for its approval or rejection in an annual general session or a special session.

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

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

(c) If an agency fails to obtain the Legislature's approval under this Subsection (3):

(i) the governor or Judicial Council, as appropriate, may require the agency to withdraw the new federal funds request or refuse or return the new federal funds;

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

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

Section 23. Section **63-47-7** is amended to read:

**63-47-7. Authority to accept funds, gifts, and donations.**

The commission may, subject to Title 63, Chapter 38e, Federal Funds Procedures, receive and accept federal funds, and receive and accept private gifts, donations, or funds from any source. All moneys shall be deposited with the state and shall be continuously available to the commission to carry out the purposes of this act.

Section 24. Section **65A-8-1.2** is amended to read:

**65A-8-1.2. Urban and community forestry program.**

(1) An urban and community forestry program is created within the division.

(2) The purpose of the program is to encourage the planting and maintenance of trees within municipalities and unincorporated communities.

(3) The division may:

(a) advise and assist municipalities, counties, and other public and private entities in developing and coordinating policies, programs, and activities promoting urban and community forestry;

(b) receive, by following the procedures and requirements of Title 63, Chapter 38e, Federal Funds Procedures, federal funds for the urban and community forestry program; and

(c) provide grants to municipalities and counties for urban and community forestry programs and cooperative projects.

(4) The division shall:

(a) develop a public education program to inform tree care professionals and citizens of the hazards involved with the planting of new trees and the maintenance of existing trees near overhead power lines and highways; and

(b) develop and implement a program of public awareness to inform citizens about the benefits of planting trees in urban areas and how to maintain trees.

Section 25. Section **71-7-3** is amended to read:

**71-7-3. Development, operation, and maintenance of Utah Veterans' Cemetery and Memorial Park -- Responsibilities of Division of Veterans' Affairs -- Costs -- Definition.**

(1) The Division of Veterans' Affairs, in consultation with the Veterans' Memorial Park Board, shall develop, operate, and maintain a veterans' cemetery and memorial park.

(2) To help pay the costs of developing, constructing, operating, and maintaining a veterans' cemetery and memorial park, the Division of Veterans' Affairs may:

(a) by following the procedures and requirements of Title 63, Chapter 38e, Federal Funds Procedures, receive federal funds, and may receive state funds, contributions from veterans' organizations, and other private donations; and

(b) charge fees for at least the cost of the burial of veterans' spouses and other persons, whom the division and the Veterans' Memorial Park Board determines are eligible to be buried in a veterans' cemetery established by the state.

(3) As used in this chapter, "veteran" has the same meaning as in Section 71-8-1.

Section 26. Section **72-7-206** is amended to read:

**72-7-206. Screening of existing junkyards.**

(1) The department shall screen any junkyard lawfully in existence on May 9, 1967, which is located within 1,000 feet of the nearest edge of the right-of-way and visible from the main-traveled-way of any highway on the interstate or primary system.

(2) The screening shall be at locations on the right-of-way or in areas outside the right-of-way acquired for that purpose and may not be visible from the main-traveled-way of the interstate or federal-aid primary systems.

(3) The department may not install junkyard screening under this section unless:

(a) the necessary federal funds for participation have been appropriated by the federal government and are immediately available to the state[-]; and

(b) the department has received approval to seek federal grants, loans, or participation in federal programs under Title 63, Chapter 38e, Federal Funds Procedures.

Section 27. Section **72-7-207** is amended to read:

**72-7-207. Junkyards not adaptable to screening -- Authority of department to acquire land -- Compensation.**

(1) If the department determines that the topography of the land adjoining the interstate and primary systems will not permit adequate screening of junkyards or that screening would not be economically feasible, the department may acquire by gift, purchase, exchange, or eminent domain the interests in lands necessary to secure the relocation, removal, or disposal of the junkyards.

(2) If the department determines that it is in the best interests of the state, it may acquire lands, or interests in lands, necessary to provide adequate screening of junkyards.

(3) The acquisitions provided for in this section may not be undertaken unless:

(a) the necessary federal funds for participation have been appropriated by the federal government and are immediately available to the state[-]; and

(b) the department has received approval to seek federal grants, loans, or participation in federal programs under Title 63, Chapter 38e, Federal Funds Procedures.



(4) Damages resulting from any taking of property in eminent domain shall be ascertained in the manner provided by law.

(5) Just compensation shall be paid the owner for the relocation, removal, or disposal of a junkyard lawfully established under the laws of this state and which must be relocated, removed, or disposed of under this part.

**Section 28. Repealer.**

This bill repeals:

**Section 63-40-1, Purposes of chapter.**

**Section 63-40-2, Federal assistance management officer -- Duties.**

**Section 63-40-3, Governor authorized to accept funds -- Designation of state agency -- Identification of federal grants or assistance programs.**

**Section 63-40-4, Applications for funds by state agencies -- Approval.**

**Section 63-40-5, Reports by participating state agencies.**

**Section 63-40-6, Reduction in programs supported by federal grants required.**

**Section 63-40-7, Executive Appropriations Committee -- Oversight of federal assistance -- Meeting with congressional leaders.**

**Section 29. Effective date.**

This bill takes effect on May 3, 2004, except that the amendments to Section 63-38-2 (Effective 07/01/04) take effect on July 1, 2004.