

Representative Justin L. Fawson proposes the following substitute bill:

FEDERAL FUNDS PROCEDURES ACT AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Justin L. Fawson

Senate Sponsor: Ann Millner

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ provides and amends definitions;
- ▶ provides that the State Board of Education is subject to the review and approval requirements for federal funds;
- ▶ provides that a federal funds request summary includes certain documentation awarding an agency a grant of federal funds;
- ▶ provides that if certain documentation is not included in a federal funds request summary, it shall be submitted before expending a federal funds grant;
- ▶ specifies procedures for the State Board of Education to approve certain new federal funds requests; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:



26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **63J-5-102**, as last amended by Laws of Utah 2015, Chapter 190

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

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

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

33 ENACTS:

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



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

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

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

39 (1) As used in this chapter:

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

42 (ii) "Agency" includes:

43 (A) executive branch entities [and];

44 (B) judicial branch entities; and

45 (C) the State Board of Education.

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

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

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

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

54 (c) "Federal funds reauthorization" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

86 (i) a school district;

87 (ii) a charter school; or

88 (iii) the Utah Schools for the Deaf and the Blind.

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

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

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

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

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

97 (iii) a one-time TANF request.

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

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

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

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

103 (ii) a one-time TANF request.

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

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

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

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

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

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

118 (ii) "Pass-through federal funds" does not include federal funds provided to the State

119 Board of Education that are distributed to a local education agency or other subrecipient
120 without being used by the State Board of Education.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

150 federal program.

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

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

156 (a) withdraw the new federal funds request;

157 (b) return the federal funds;

158 (c) withdraw from the federal program; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

196 (5) If a letter or other official documentation awarding a judicial branch agency a grant
197 of federal funds is not available to be included in a federal funds request summary submitted to
198 the Judicial Council under this section, the judicial branch agency shall submit to the Judicial
199 Council the letter or other official documentation awarding the judicial branch agency a grant
200 of federal funds before expending the federal funds granted.

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

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

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

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

211 (ii) receipt of the new federal funds will require no additional permanent full-time

212 employees, additional permanent part-time employees, or a combination of additional
213 permanent full-time employees and permanent part-time employees; and

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

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

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

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

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

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

224 (3) If a letter or other official documentation awarding the State Board of Education a
225 grant of federal funds is not available to be included in the federal funds request summary
226 submitted under this section, the letter or other official documentation awarding the State
227 Board of Education a grant of federal funds shall be submitted to the State Board of Education
228 before expending the federal funds granted.

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

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

231 (1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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