

HB0329S01 compared with HB0329

~~deleted text~~ shows text that was in HB0329 but was deleted in HB0329S01.

inserted text shows text that was not in HB0329 but was inserted into HB0329S01.

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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: _____

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;

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- ▶ specifies procedures for the State Board of Education to approve certain new federal funds requests; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

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

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

ENACTS:

63J-5-203.5, Utah Code Annotated 1953

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

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

63J-5-102. 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:

(A) executive branch entities [and];

(B) judicial branch entities; and

(C) the State Board of Education.

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

(b) (i) "Federal funds" means cash or other money 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,

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however described.

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

(c) "Federal funds reauthorization" means:

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

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

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

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

~~(i)~~ (A) 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)~~ (B) 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)~~ (C) the amount of new state money, if any, that will be required to receive the federal funds or participate in the federal program;

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

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

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

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

(e) "Federal maintenance of effort requirements" means any matching, level of effort,

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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) "Local education agency" or "LEA" means:

(i) a school district;

(ii) a charter school; or

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

~~(f)~~ (g) "New federal funds" means:

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

(A) the state is not currently receiving; or

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

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

(iii) a one-time TANF request.

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

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

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

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

(ii) a one-time TANF request.

~~(h)~~ (i) (i) "New state money" means money, 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 money" includes money expended to meet federal maintenance of effort requirements.

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

(i) for a project or program that will last for a fixed amount of time and is not an

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ongoing project or program of the Department of Workforce Services; and

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

~~[(f)]~~ (k)(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.

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

~~[(k)]~~ (l) "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 2. Section 63J-5-202 is amended to read:

63J-5-202. 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 money 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 Management 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;

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- (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).

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

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

63J-5-203. 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

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

(iii) no new state money 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).

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

Section ~~{2}~~4. Section **63J-5-203.5** is enacted to read:

63J-5-203.5. State Board of Education 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

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federal funds request, and, where possible, before formally submitting the new federal funds request, the State Board of Education shall review a federal funds request summary of the State Board of Education 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 a combination of additional permanent full-time employees and permanent part-time employees; and

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

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

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

(a) the Legislature's Executive Appropriations Committee;

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

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

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

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

63J-5-204. Legislative review and approval of certain 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

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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 money 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 money in a fiscal year in order to receive or administer the new federal funds or participate in the new federal program.

(2) (a) (i) 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 that was not authorized during a legislative session as provided in Section 63J-5-201, an agency shall:

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

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

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

(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;

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(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) (i) 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 that was not authorized during a legislative session as provided in Section 63J-5-201, an agency shall:

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

(B) if the governor [~~or~~], the Judicial Council, or the State Board of Education 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.

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

(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.

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

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

(b) 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

(c) 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.

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Legislative Review Note

~~Office of Legislative Research and General Counsel;~~ (5) If a letter or other official documentation awarding an agency a grant of federal funds is not available to be included in the agency's federal funds request summary to the governor, the Judicial Council, or the State Board of Education, as appropriate, under this section, the agency shall submit to the governor, the Judicial Council, or the State Board of Education, as appropriate, the letter or other official documentation awarding the agency a grant of federal funds before expending the federal funds granted.