

1                   **INTERGOVERNMENTAL TRANSFER AMENDMENTS**

2                                   2017 GENERAL SESSION

3                                   STATE OF UTAH

4                           **Chief Sponsor: Dean Sanpei**

5                           Senate Sponsor: Jerry W. Stevenson

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7   **LONG TITLE**

8   **General Description:**

9           This bill regulates the use of intergovernmental transfers for the Medicaid program.

10 **Highlighted Provisions:**

11           This bill:

12           ▶ prohibits a city owned hospital or city owned nursing care facility from operating in  
13 another city's boundary without entering into an interlocal agreement with the city;

14           ▶ establishes an annual reporting requirement for the Medicaid program and local  
15 governmental entities that create intergovernmental transfers to draw down federal  
16 matching Medicaid funds;

17           ▶ defines terms;

18           ▶ amends the Federal Funds Procedures Act to make Medicaid intergovernmental  
19 transfer programs subject to the federal funds review process; and

20           ▶ prohibits the creation of new intergovernmental transfer programs after July 1,  
21 2017, unless the Department of Health submits the intergovernmental transfer  
22 program for review and approval by the Executive Appropriations Committee under  
23 the federal funds review and approval process of the Budgetary Procedures Act.

24 **Money Appropriated in this Bill:**

25           None

26 **Other Special Clauses:**

27           None



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **10-8-90**, as last amended by Laws of Utah 2003, Chapter 292

31 **63J-5-103**, as last amended by Laws of Utah 2015, Chapter 190

32 ENACTS:

33 **26-18-21**, Utah Code Annotated 1953

34 **63J-5-206**, Utah Code Annotated 1953

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

37 Section 1. Section **10-8-90** is amended to read:

38 **10-8-90. Ownership and operation of hospitals.**

39 (1) Each city of the third, fourth, or fifth class and each town of the state is authorized  
40 to construct, own, and operate hospitals and to join with other cities, towns, and counties in the  
41 construction, ownership, and operation of hospitals.

42 (2) Beginning July 1, 2017, a hospital under Subsection (1) that owns a nursing care  
43 facility regulated under Title 26, Chapter 21, Health Care Facility Licensing and Inspection  
44 Act, and uses an intergovernmental transfer as that term is defined in Section 26-18-21 may not  
45 operate a nursing care facility in another city, town, or county without first entering into an  
46 agreement under Title 11, Chapter 13, Interlocal Cooperation Act, or other contract with the  
47 other city, town, or county to operate the nursing care facility.

48 Section 2. Section **26-18-21** is enacted to read:

49 **26-18-21. Medicaid intergovernmental transfer report.**

50 (1) As used in this section:

51 (a) (i) "Intergovernmental transfer" means the transfer of public funds from:

52 (A) a local government entity to another nonfederal governmental entity; or

53 (B) from a nonfederal, government owned health care facility regulated under Chapter  
54 21, Health Care Facility Licensing and Inspection Act, to another nonfederal governmental  
55 entity.

56 (ii) "Intergovernmental transfer" does not include:

57 (A) the transfer of public funds from one state agency to another state agency; or

58 (B) an intergovernmental transfer from the University of Utah Hospitals and Clinics for

59 the inpatient hospital intergovernmental transfer program.

60 (b) "Intergovernmental transfer program" means a reimbursement category authorized  
61 by the Medicaid state plan or waiver authority for intergovernmental transfers.

62 (c) "Local government entity" means a county, city, town, special service district, or  
63 local education agency as that term is defined in Section [63J-5-102](#).

64 (2) (a) An entity that receives federal Medicaid dollars from the department as a result  
65 of an intergovernmental transfer shall, on or before August 1, 2017, and on or before August 1  
66 each year thereafter, provide the department with:

67 (i) information regarding the services funded with the intergovernmental transfer;

68 (ii) the entity's analysis of the entity's ability to repay federal funds if there is a federal  
69 disallowance of the intergovernmental transfer; and

70 (iii) other information required by the department in the contract for the  
71 intergovernmental transfer.

72 (b) On or before October 15, 2017, and on or before October 15 each year thereafter,  
73 the department shall prepare a report for the Executive Appropriations Committee that  
74 includes:

75 (i) the amount of each intergovernmental transfer under Subsection (2)(a);

76 (ii) the department's analysis of the risk of a federal disallowance for the state; and

77 (iii) other information the department gathers about the intergovernmental transfer  
78 under Subsection (2)(a).

79 (3) The department shall not create a new intergovernmental transfer program after  
80 July 1, 2017, unless the department reports to the Executive Appropriations Committee, in  
81 accordance with Section [63J-5-206](#), before submitting the new intergovernmental transfer  
82 program for federal approval. The report shall include information required by Subsection  
83 [63J-5-102](#)(1)(d) and the analysis required in Subsections (2)(a) and (b).

84 Section 3. Section **63J-5-103** is amended to read:

85 **63J-5-103. Scope and applicability of chapter.**

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

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

- 90 (a) except as provided in Section 63J-5-206, the Medical Assistance Program,  
91 commonly known as Medicaid;
- 92 (b) except as provided in Section 63J-5-206, the Children's Health Insurance Program;
- 93 (c) the Women, Infant, and Children program;
- 94 (d) the Temporary Assistance for Needy Families program, except for a one-time  
95 TANF request as defined in Section 63J-5-102;
- 96 (e) Social Security Act money;
- 97 (f) the Substance Abuse Prevention and Treatment program;
- 98 (g) Child Care and Development Block Grant;
- 99 (h) SNAP Administration and Training money;
- 100 (i) Unemployment Insurance Operations money;
- 101 (j) Federal Highway Administration money;
- 102 (k) the Utah National Guard; or
- 103 (l) pass-through federal funds.

104 (3) The governor need not seek legislative review or approval of federal funds received  
105 by the state if:

- 106 (a) the governor has declared a state of emergency; and
- 107 (b) the federal funds are received to assist victims of the state of emergency under  
108 Section 53-2a-204.

109 Section 4. Section 63J-5-206 is enacted to read:

110 **63J-5-206. Intergovernmental transfers for Medicaid.**

111 (1) An intergovernmental transfer program under Section 26-18-21 is a federal funds  
112 request subject to review under this chapter and under Subsections (2) and (3).

113 (2) If the intergovernmental transfer program created under Subsection 26-18-21(3)  
114 will result in the state receiving total payments of \$1,000,000 or more per year from the federal  
115 government, the federal funds review process shall be the high impact federal funds review  
116 process in Subsections 63J-5-204(3), (4), and (5).

117 (3) Beginning on July 1, 2017, an intergovernmental transfer program created before  
118 July 1, 2017, is subject to the federal funds review process of Section 63J-5-201.

**Legislative Review Note**  
**Office of Legislative Research and General Counsel**