

Representative Ken Ivory proposes the following substitute bill:

FEDERAL FUNDS AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ken Ivory

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions relating to the budgeting process for federal funds.

Highlighted Provisions:

This bill:

- ▶ provides and amends definitions;
- ▶ clarifies that certain agency authorizations to expend dedicated credits and fixed collections revenues greater than the amount appropriated to them do not apply to federal funds appropriated in an appropriations act;
- ▶ repeals a provision that authorizes an agency that receives federal funds greater than the amount approved through the budgeting process to expend up to 25% in excess of the amount approved in certain circumstances; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:



26 [63J-2-102](#), as last amended by Laws of Utah 2016, Chapter 120

27 [63J-2-202](#), as last amended by Laws of Utah 2012, Chapter 102

28 [63J-5-102](#), as last amended by Laws of Utah 2016, Chapter 272

29 REPEALS:

30 [63J-5-205](#), as enacted by Laws of Utah 2011, Chapter 326



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

32 Section 1. Section [63J-2-102](#) is amended to read:

33 **[63J-2-102. Definitions.](#)**

34 As used in this chapter:

35 (1) (a) "Agency" means each department, commission, board, council, agency,
36 institution, officer, corporation, fund, division, office, committee, authority, laboratory, library,
37 unit, bureau, panel, or other administrative unit of the state.

38 (b) "Agency" does not include the legislative branch, the board of regents, the Utah
39 Higher Education Assistance Authority, the board of trustees of each higher education
40 institution, each higher education institution and its associated branches, centers, divisions,
41 institutes, foundations, hospitals, colleges, schools, or departments, a public education entity,
42 or an independent agency.

43 (2) (a) "Dedicated credits revenues" means revenues from collections by an agency that
44 are deposited directly into an account for expenditure on a separate line item and program.

45 (b) "Dedicated credits" does not mean:

46 (i) ~~[federal revenues]~~ federal funds and the related pass through or the related state
47 match paid by one agency to another;

48 (ii) revenues that are not deposited in governmental funds; or

49 (iii) revenues from any contracts.

50 (3) "Federal funds" means the same as that term is defined in Section [63J-5-102](#).

51 ~~[(3)]~~ (4) "Fees" means revenue collected by an agency for performing a service or
52 providing a function that the agency deposits or accounts for as dedicated credits or fixed
53 collections.

54 ~~[(4)]~~ (5) (a) "Fixed collections revenues" means revenue from collections:

55 (i) fixed by law or by the appropriation act at a specific amount; and

57 (ii) required by law to be deposited into a separate line item and program.

58 (b) "Fixed collections" does not mean:

59 (i) [~~federal revenues~~] federal funds and the related pass through or the related state
60 match paid by one agency to another;

61 (ii) revenues that are not deposited in governmental funds;

62 (iii) revenues from any contracts; and

63 (iv) revenues received by the [~~Attorney General's~~] Office of the Attorney General from
64 billings for professional services.

65 [~~(5)~~] (6) (a) "Governmental fund" means funds used to account for the acquisition, use,
66 and balances of expendable financial resources and related liabilities using a measurement
67 focus that emphasizes the flow of financial resources.

68 (b) "Governmental fund" does not include internal service funds, enterprise funds,
69 capital projects funds, debt service funds, or trust and agency funds as established in Section
70 [51-5-4](#).

71 [~~(6)~~] (7) "Independent agency" means the Utah State Retirement Office, the Utah
72 Housing Corporation, and the Workers' Compensation Fund.

73 [~~(7)~~] (8) "Program" means the function or service provided by an agency for which the
74 agency collects fees.

75 [~~(8)~~] (9) "Revenue types" means the categories established by the Division of Finance
76 under the authority of this chapter that classify revenue according to the purpose for which it is
77 collected.

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

79 **63J-2-202. Disposition of revenues -- Reporting of balances in dedicated credits**
80 **and fixed collections.**

81 (1) (a) Each agency shall include in its annual budget request estimates of dedicated
82 credits revenues and fixed collections revenues that are identified by, collected for, or set by the
83 agency.

84 (b) If the Legislature or the Division of Finance establishes a new revenue type by law,
85 the agency shall include that new revenue type in its budget request for the next fiscal year.

86 (c) (i) Except as provided in Subsection (1)(c)(ii), if any agency fails to include the
87 estimates of a revenue type in its annual budget request, the Division of Finance shall deposit

88 the money collected in that revenue type into the General Fund or other appropriate fund as
89 free or restricted revenue.

90 (ii) The Division of Finance may not deposit the money collected from a revenue type
91 not included in an agency's annual budget request into the General Fund or other appropriate
92 fund if the agency did not include the estimates of the revenue type in its annual budget request
93 because the Legislature had not yet established or authorized the new revenue type by law.

94 (2) (a) (i) (A) Except as provided in Subsection (2)(a)(i)(B) [~~or~~], (2)(b), or (2)(c), each
95 agency that receives dedicated credits and fixed collections revenues greater than the amount
96 appropriated to them by the Legislature in the annual appropriations act may expend the excess
97 up to 25% of the amount appropriated if the expenditure is authorized by an amended work
98 program approved as provided in Section 63J-1-209.

99 (B) Except for line items covering tuition and federal vocational funds at institutions of
100 higher learning, any expenditure of dedicated credits in excess of amounts appropriated by the
101 Legislature may not be used to permanently increase personnel within the agency unless
102 approved by the Legislature.

103 (ii) The Division of Finance shall deposit the balance of that excess into the General
104 Fund or other appropriate fund as free or restricted revenue.

105 (b) Notwithstanding the requirements of Subsection (2)(a) and except as provided in
106 Subsection (2)(c), when an agency's dedicated credits and fixed collections revenues represent
107 over 90% of the budget of the program for which they are collected, the agency may expend
108 100% of the excess of the amount appropriated if the expenditure is authorized by an amended
109 work program approved as provided in Section 63J-1-209.

110 (c) The authorizations in Subsections (2)(a) and (b) to expend dedicated credits and
111 fixed collections revenues greater than the amount appropriated to an agency by the Legislature
112 in the annual appropriations act do not apply to federal funds appropriated to an agency by the
113 Legislature in the annual appropriations act.

114 (3) Each agency that receives dedicated credits or fixed collections shall report, to the
115 Division of Finance, any balances remaining in those funds at the conclusion of each fiscal
116 year.

117 Section 3. Section 63J-5-102 is amended to read:

118 **63J-5-102. Definitions.**

119 (1) As used in this chapter:

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

122 (ii) "Agency" includes:

123 (A) executive branch entities;

124 (B) judicial branch entities; and

125 (C) the State Board of Education.

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

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

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

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

134 (c) "Federal funds reauthorization" means:

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

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

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

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

144 (A) the amount of money that is being requested or is available to be received by the
145 state from the federal government for each federal funds reauthorization or new federal funds
146 request;

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

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

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

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

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

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

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

161 (e) "Federal maintenance of effort requirements" means any matching, level of effort,
162 or earmarking requirements, as defined in Office of Management and Budget requirements,
163 that are imposed on an agency as a condition of receiving federal funds.

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

165 (i) a school district;

166 (ii) a charter school; or

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

168 (g) "New federal funds" means:

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

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

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

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

176 (iii) a one-time TANF request.

177 (h) "New federal funds request" means:

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

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

180 (B) applying for or seeking to participate in a new federal program that will result in

181 federal funds being transferred to an agency; or

182 (ii) a one-time TANF request.

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

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

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

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

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

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

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

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

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

205 **Section 4. Repealer.**

206 This bill repeals:

207 Section **63J-5-205, Federal funds awards that exceed approved appropriations.**

208 **Section 5. Effective date.**

209 This bill takes effect on July 1, 2017.

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