

## HB0363S02 compared with HB0363

~~{deleted text}~~ shows text that was in HB0363 but was deleted in HB0363S02.

Inserted text shows text that was not in HB0363 but was inserted into HB0363S02.

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Representative Ken Ivory proposes the following substitute bill:

### FEDERAL FUNDS AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Ken Ivory**

Senate Sponsor: \_\_\_\_\_

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#### 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 ~~{each}~~ certain agency ~~{that receives federal}~~ authorizations to expend dedicated credits and fixed collections revenues greater than the amount appropriated to them ~~{by the Legislature}~~ do not apply to federal funds appropriated in {the annual} an appropriations act ~~{may expend a certain amount that exceeds the appropriated amount if the expenditure is authorized by an approved amended work program}~~;
- ▶ amends the definition of new federal funds for determining approval requirements

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for federal funds;

- ▶ requires each agency to submit and receive approval for an amended work program before expending federal funds in excess of the amount appropriated to a line item by the Legislature; 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:

63J-1-102, as last amended by Laws of Utah 2015, Chapter 175

63J-1-209, as renumbered and amended by Laws of Utah 2009, Chapters 183 and 368

63J-2-102, as last amended by Laws of Utah 2016, Chapter 120

63J-2-202, as last amended by Laws of Utah 2012, Chapter 102

63J-5-102, as last amended by Laws of Utah 2016, Chapter 272

63J-5-205, as enacted by Laws of Utah 2011, Chapter 326

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

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

#### **63J-1-102. Definitions.**

- (1) "Debt service" means the money that is required annually to cover the repayment of interest and principal on state debt.
- (2) "Dedicated credits" means collections by an agency that are deposited directly into an account for expenditure on a separate line item and program.
- (3) "Federal revenues" means collections by an agency from a federal source that are deposited into an account for expenditure on a separate line item and program.
- (4) "Fixed collections" means collections that are:
  - (a) fixed at a specific amount by law or by an appropriation act; and
  - (b) required to be deposited into a separate line item and program.
- (5) "Free revenue" includes:

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- (a) collections that are required by law to be deposited in:
  - (i) the General Fund;
  - (ii) the Education Fund;
  - (iii) the Uniform School Fund; or
  - (iv) the Transportation Fund;
- (b) collections that are not otherwise designated by law;
- (c) collections that are not externally restricted; and
- (d) collections that are not included in an approved work program.
- (6) "Major revenue types" means:
  - (a) free revenue;
  - (b) restricted revenue;
  - (c) dedicated credits; ~~and~~
  - (d) fixed collections~~;~~; and
  - (e) federal funds.
- (7) "Restricted revenue" means collections that are:
  - (a) deposited, by law, into a separate fund, subfund, or account; and
  - (b) designated for a specific program or purpose.

### Section 2. Section 63J-1-209 is amended to read:

#### **63J-1-209. Director of finance to exercise accounting control -- Work programs -- Allotments and expenditures.**

(1) The director of finance shall exercise accounting control over all state departments, institutions, and agencies other than the Legislature and legislative committees.

(2) (a) The director shall require the head of each department to submit, by May 15 of each year, a work program for the next fiscal year.

(b) The director may require any department to submit a work program for any other period.

(3) The work program shall include appropriations and all other funds from any source made available to the department for its operation and maintenance for the period and program authorized by the appropriation act.

(4) Subject to the requirements of Subsection 63J-1-206(3)(e), the Division of Finance shall, upon request from the governor or the governor's designee, revise, alter, decrease, or

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change work programs.

(5) Notwithstanding the requirements of Title 63J, Chapter 2, Revenue Procedures and Control Act, or Title 63J, Chapter 5, Federal Funds Procedures Act, the aggregate of the work program changes may not exceed the total appropriations or other funds from any source that are available to the department line item for the fiscal year in question.

(6) The Division of Finance shall transmit a copy of the changes, when approved by the governor or the governor's designee, to:

- (a) the head of the department concerned; and
- (b) the legislative analyst.

(7) Upon request, review, and approval by the governor or the governor's designee, the Division of Finance shall permit all expenditures to be made from the appropriations or other funds from any source on the basis of those work programs.

(8) The Division of Finance shall, through statistical sampling methods or other means, audit all claims against the state for which an appropriation has been made.

### Section 3. Section 63J-2-102 is amended to read:

#### **63J-2-102. Definitions.**

As used in this chapter:

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

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

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

(b) "Dedicated credits" does not mean:

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

(ii) grants from persons or corporations approved under Title 63J, Chapter 7, Grants

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### from Persons and Corporations:

~~[(ii)]~~ ~~(iii)~~ revenues that are not deposited in governmental funds; or

~~[(iii)]~~ ~~(iv)~~ revenues from any contracts.

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

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

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

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

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

(b) "Fixed collections" does not mean:

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

(ii) grants from persons or corporations approved under Title 63J, Chapter 7, Grants

### from Persons and Corporations:

~~[(ii)]~~ ~~(iii)~~ revenues that are not deposited in governmental funds;

~~[(iii)]~~ ~~(iv)~~ revenues from any contracts; ~~[and]~~ or

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

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

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

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

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

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

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collected.

Section ~~(1)~~4. Section **63J-2-202** is amended to read:

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

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

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

(c) (i) Except as provided in Subsection (1)(c)(ii), if any agency fails to include the estimates of a revenue type in its annual budget request, the Division of Finance shall deposit the money collected in that revenue type into the General Fund or other appropriate fund as free or restricted revenue.

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

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

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

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

(b) Notwithstanding the requirements of Subsection (2)(a), when an agency's dedicated credits and fixed collections revenues represent over 90% of the budget of the program for which they are collected, the agency may expend 100% of the excess of the amount

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appropriated if the expenditure is authorized by an amended work program approved as provided in Section 63J-1-209.

~~(c) Notwithstanding the requirements of Subsection (2)(a), each agency that receives federal~~The authorizations in Subsections (2)(a) and (b) to expend dedicated credits and fixed collections revenues greater than the amount appropriated to ~~them~~an agency by the Legislature in the annual appropriations act ~~may expend the excess up to 25% of the amount appropriated as an ongoing amount if the expenditure is authorized by an amended work program approved as provided in Section 63J-1-209~~do not apply to federal funds appropriated to an agency by the Legislature in the annual appropriations act.

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

Section ~~2~~5. 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;

(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, 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

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

(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;

~~(B)~~ the amount of those federal funds that is one-time in nature and should not be used to create ongoing spending expectations;

~~(B)~~(C) 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;

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

~~(D)~~(E) 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

~~(E)~~(F) 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, or earmarking requirements, as defined in Office of Management and Budget requirements, that are imposed on an agency as a condition of receiving federal funds.

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



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- (i) a school district;
- (ii) a charter school; or
- (iii) the Utah Schools for the Deaf and the Blind.

(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 not identified as one-time in an appropriations act

most recently approved by the Legislature ~~{ as an ongoing amount }~~ 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.

(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.

(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.

(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 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.

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(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.

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

(m) 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 ~~63~~6. Section 63J-5-205 is amended to read:

### 63J-5-205. Federal funds awards that exceed approved appropriations.

(1) Each agency that receives federal funds greater than the amount approved through the process provided for in this chapter may, using those excess funds, expend up to 25% in excess of the [of the] amount approved and not identified as one-time if:

[1] (a) receipt or use of the excess federal funds will not require the addition of one or more permanent full-time employees or permanent part-time employees;

[2] (b) no new state money will be required to match the excess federal funds; and

[3] (c) receipt or use of the excess federal funds will not require the state to comply with new requirements or conditions in order to receive the federal funds or to participate in the federal program.

(2) Before expending federal funds in excess of the amount appropriated to a line item by the Legislature, each agency shall submit and receive approval for an amended work program as provided in Section 63J-1-209.

### Section 7. Effective date.

This bill takes effect on July 1, 2017.

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~~Office of Legislative Research and General Counsel~~