

**Representative Francis D. Gibson** proposes the following substitute bill:

**FEDERAL GRANTS MANAGEMENT AMENDMENTS**

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Francis D. Gibson**

Senate Sponsor: Evan J. Vickers

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**LONG TITLE**

**General Description:**

This bill makes changes relating to the review and approval of certain intergovernmental transfer programs under the Federal Funds Procedures Act.

**Highlighted Provisions:**

This bill:

- ▶ amends definitions;
- ▶ specifies that restrictions on certain hospitals and nursing care facilities only apply to certain cities or towns;
- ▶ amends the federal funds requests that are subject to the review and approval

procedures under the Federal Funds Procedures Act; ~~H→~~ **and**

~~[→ amends provisions related to the Medicaid Growth Reduction and Stabilization Account; and] ←H~~

- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:**



26 AMENDS:

27 **10-8-90**, as last amended by Laws of Utah 2017, Chapter 247

28 **26-18-21**, as enacted by Laws of Utah 2017, Chapter 247

29 ~~H→ [ **63J-1-315**, as last amended by Laws of Utah 2016, Chapter 183 ] ←H~~

30 **63J-5-102**, as last amended by Laws of Utah 2017, Chapter 247

31 **63J-5-206**, as enacted by Laws of Utah 2017, Chapter 247

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

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

35 **10-8-90. Ownership and operation of hospitals.**

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

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

46 (b) Subsection (2)(a) only applies to a city or town described in Subsection (1).

47 Section 2. Section **26-18-21** is amended to read:

48 **26-18-21. Medicaid intergovernmental transfer report -- Approval requirements.**

49 (1) As used in this section:

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

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

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

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

56 (A) the transfer of public funds from one state agency to another state agency[-]; or

150 (b) a requirement that a non-state government entity or nursing care facility post a  
 151 bond, purchase insurance, or create a reserve account of any kind.

152 (8) The ~~H→ [department may not audit a]~~ ~~←H~~ non-state ~~H→ [governmental entity's]~~  
 152a ~~government entity shall have the primary responsibility for ensuring~~ ~~←H~~ compliance with  
 153 Subsection (4)(d)(ii).

154 (9) (a) The department may not enter into a new Nursing Care Facility Non-State  
 155 Government-Owned Upper Payment Limit program contract before January 1, 2019.

156 (b) Subsection (9)(a) does not apply to ~~S→ ; ←S~~  
 156a ~~S→ (i) ←S~~ a new Nursing Care Facility Non-State  
 157 Government-Owned Upper Payment Limit program contract that was included in the federal  
 158 funds request summary under Section 63J-5-201 for fiscal year 2018 ~~S→ [;] ; or ←S~~  
 158a ~~S→ (ii) a nursing care facility that is operated or managed by the same company as a nursing~~  
 158b ~~care facility that was included in the federal funds request summary under Section 63J-5-201~~  
 158c ~~for fiscal year 2018. ←S~~

159 ~~H→ [Section 3. Section 63J-1-315 is amended to read:~~

160 ~~63J-1-315. Medicaid Growth Reduction and Budget Stabilization Account --~~

161 ~~Transfers of Medicaid growth savings -- Base budget adjustments.~~

162 ~~(1) As used in this section:~~

163 ~~(a) "Department" means the Department of Health created in Section 26-1-4.~~

164 ~~(b) "Division" means the Division of Health Care Financing created within the~~  
 165 ~~department under Section 26-18-2.1.~~

166 ~~(c) "General Fund revenue surplus" means a situation where actual General Fund~~  
 167 ~~revenues collected in a completed fiscal year exceed the estimated revenues for the General~~  
 168 ~~Fund for that fiscal year that were adopted by the Executive Appropriations Committee of the~~  
 169 ~~Legislature.~~

170 ~~(d) "Medicaid growth savings" means the Medicaid growth target minus Medicaid~~  
 171 ~~program expenditures, if Medicaid program expenditures are less than the Medicaid growth~~  
 172 ~~target.~~

173 ~~(e) "Medicaid growth target" means Medicaid program expenditures for the previous~~  
 174 ~~year multiplied by 1.08.~~

175 ~~(f) "Medicaid program" is as defined in Section 26-18-2.~~

176 ~~(g) "Medicaid program expenditures" means total state revenue expended for the~~  
 177 ~~Medicaid program from the General Fund, including restricted accounts within the General~~  
 178 ~~Fund, during a fiscal year.~~

179 ~~(h) "Medicaid program expenditures for the previous year" means total state revenue~~  
 180 ~~expended for the Medicaid program from the General Fund, including restricted accounts]~~ ~~←H~~

181 ~~H→ [within the General Fund, during the fiscal year immediately preceding a fiscal year for which~~  
 182 ~~Medicaid program expenditures are calculated.~~

183 ~~—— (i) "Operating deficit" means that, at the end of the fiscal year, the unassigned fund~~  
 184 ~~balance in the General Fund is less than zero.~~

185 ~~—— (j) "State revenue" means revenue other than federal revenue.~~

186 ~~—— (k) "State revenue expended for the Medicaid program" includes money transferred or~~  
 187 ~~appropriated to the Medicaid Growth Reduction and Budget Stabilization Account only to the~~  
 188 ~~extent the money is appropriated for the Medicaid program by the Legislature.~~

189 ~~—— (2) There is created within the General Fund a restricted account to be known as the~~  
 190 ~~Medicaid Growth Reduction and Budget Stabilization Account.~~

191 ~~—— (3) (a) (i) Except as provided in Subsection (6), if, at the end of a fiscal year, there is a~~  
 192 ~~General Fund revenue surplus, the Division of Finance shall transfer an amount equal to~~  
 193 ~~Medicaid growth savings from the General Fund to the Medicaid Growth Reduction and~~  
 194 ~~Budget Stabilization Account.~~

195 ~~—— (ii) If the amount transferred is reduced to prevent an operating deficit, as provided in~~  
 196 ~~Subsection (6), the Legislature shall include, to the extent revenue is available, an amount~~  
 197 ~~equal to the reduction as an appropriation from the General Fund to the account in the base~~  
 198 ~~budget for the second fiscal year following the fiscal year for which the reduction was made.~~

199 ~~—— (b) If, at the end of a fiscal year, there is not a General Fund revenue surplus, the~~  
 200 ~~Legislature shall include, to the extent revenue is available, an amount equal to Medicaid~~  
 201 ~~growth savings as an appropriation from the General Fund to the account in the base budget for~~  
 202 ~~the second fiscal year following the fiscal year for which the reduction was made.~~

203 ~~—— (c) Subsections (3)(a) and (3)(b) apply only to the fiscal year in which the department~~  
 204 ~~implements the proposal developed under Section 26-18-405 to reduce the long-term growth in~~  
 205 ~~state expenditures for the Medicaid program, and to each fiscal year after that year.~~

206 ~~—— (4) The Division of Finance shall calculate the amount to be transferred under~~  
 207 ~~Subsection (3):~~

208 ~~—— (a) before transferring revenue from the General Fund revenue surplus to:~~

209 ~~—— (i) the General Fund Budget Reserve Account under Section 63J-1-312;~~

210 ~~—— (ii) the Wildland Fire Suppression Fund created in Section 65A-8-204, as described in~~  
 211 ~~Section 63J-1-314; and] ←H~~

212 ~~H→ [(iii) the State Disaster Recovery Restricted Account under Section 63J-1-314;~~  
 213 ~~—— (b) before earmarking revenue from the General Fund revenue surplus to the Industrial~~  
 214 ~~Assistance Account under Section 63N-3-106; and~~  
 215 ~~—— (c) before making any other year-end contingency appropriations, year-end set-asides,~~  
 216 ~~or other year-end transfers required by law.~~  
 217 ~~—— (5) (a) If, at the close of any fiscal year, there appears to be insufficient money to pay~~  
 218 ~~additional debt service for any bonded debt authorized by the Legislature, the Division of~~  
 219 ~~Finance may hold back from any General Fund revenue surplus money sufficient to pay the~~  
 220 ~~additional debt service requirements resulting from issuance of bonded debt that was~~  
 221 ~~authorized by the Legislature:~~  
 222 ~~—— (b) The Division of Finance may not spend the hold back amount for debt service~~  
 223 ~~under Subsection (5)(a) unless and until it is appropriated by the Legislature:~~  
 224 ~~—— (c) If, after calculating the amount for transfer under Subsection (3), the remaining~~  
 225 ~~General Fund revenue surplus is insufficient to cover the hold back for debt service required by~~  
 226 ~~Subsection (5)(a), the Division of Finance shall reduce the transfer to the Medicaid Growth~~  
 227 ~~Reduction and Budget Stabilization Account by the amount necessary to cover the debt service~~  
 228 ~~hold back.~~  
 229 ~~—— (d) Notwithstanding Subsections (3) and (4), the Division of Finance shall hold back~~  
 230 ~~the General Fund balance for debt service authorized by this Subsection (5) before making any~~  
 231 ~~transfers to the Medicaid Growth Reduction and Budget Stabilization Account or any other~~  
 232 ~~designation or allocation of General Fund revenue surplus:~~  
 233 ~~—— (6) Notwithstanding Subsections (3) and (4), if, at the end of a fiscal year, the Division~~  
 234 ~~of Finance determines that an operating deficit exists and that holding back earmarks to the~~  
 235 ~~Industrial Assistance Account under Section 63N-3-106, transfers to the Wildland Fire~~  
 236 ~~Suppression Fund and State Disaster Recovery Restricted Account under Section 63J-1-314,~~  
 237 ~~transfers to the General Fund Budget Reserve Account under Section 63J-1-312, or earmarks~~  
 238 ~~and transfers to more than one of those accounts, in that order, does not eliminate the operating~~  
 239 ~~deficit, the Division of Finance may reduce the transfer to the Medicaid Growth Reduction and~~  
 240 ~~Budget Stabilization Account by the amount necessary to eliminate the operating deficit.~~  
 241 ~~—— (7) The Legislature may appropriate money from the Medicaid Growth Reduction and~~  
 242 ~~Budget Stabilization Account only:] ←H~~

243 ~~H→ [(a) if Medicaid program expenditures for the fiscal year for which the appropriation is~~  
 244 ~~made are estimated to be 108% or more of Medicaid program expenditures for the previous~~  
 245 ~~year; {and}~~  
 246 ~~———— (b) for the Medicaid program[-]; and~~  
 247 ~~———— (c) if non-state government entities are unable to repay federal funds relating to the~~  
 248 ~~Nursing Care Facility Non-State Government-Owned Upper Payment Limit program.~~  
 249 ~~———— (8) The Division of Finance shall deposit interest or other earnings derived from~~  
 250 ~~investment of Medicaid Growth Reduction and Budget Stabilization Account money into the~~  
 251 ~~General Fund.] ←H~~

252 Section H→ [4] 3 ←H . Section 63J-5-102 is amended to read:

253 **63J-5-102. Definitions.**

254 (1) As used in this chapter:

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

257 (ii) "Agency" includes:

258 (A) executive branch entities;

259 (B) judicial branch entities; and

260 (C) the State Board of Education.

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

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

265 (ii) "Federal funds" includes federal assistance and federal assistance programs,  
 266 however described.

267 (iii) "Federal funds" does not include money received from the United States  
 268 government to reimburse the state or local government entity for money expended by the state  
 269 or local government entity.

270 (c) "Federal funds reauthorization" means:

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

273 (ii) the formal submission from an agency to the federal government applying for or

336 Legislature.

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

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

342 ~~[(h)]~~ (m) "State" means the state of Utah and all of its agencies, and any administrative  
343 subunits of those agencies.

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

347 Section ~~H~~→ [5] 4 ←~~H~~ . Section **63J-5-206** is amended to read:

348 **63J-5-206. Intergovernmental transfers for Medicaid.**

349 (1) Subject to Subsections (2) and (3), an intergovernmental transfer program under  
350 Section 26-18-21 is subject to the same review provisions as a federal funds request under this  
351 chapter.

352 (2) Notwithstanding Subsection (1), if ~~[an]~~ a new intergovernmental transfer program  
353 created under Subsection 26-18-21(3) will result in the state receiving total payments of  
354 ~~[\$1,000,000]~~ \$10,000,000 or more per year from the federal government, the intergovernmental  
355 transfer program is subject to the same review provisions as a high impact federal funds request  
356 in Subsections 63J-5-204(3), (4), and (5).

357 (3) (a) Beginning on July 1, 2017, an intergovernmental transfer program created  
358 before July 1, 2017, is subject to the federal funds review process of Section 63J-5-201 for  
359 periods after July 1, 2017.

360 (b) The addition of a new participant into an existing intergovernmental transfer  
361 program, or the addition by the department of a nursing care facility or a non-state government  
362 entity to the Nursing Care Facility Non-State Government-Owned Upper Payment Limit  
363 program, is not subject to the requirements of this section.

364 Section ~~H~~→ [6] 5 ←~~H~~ . **Effective date.**

365 If approved by two-thirds of all the members elected to each house, this bill takes effect  
366 upon approval by the governor, or the day following the constitutional time limit of Utah