

FEDERALISM COMMISSION AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ken Ivory

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to the Federalism Commission and federal funds.

Highlighted Provisions:

This bill:

- ▶ allows the Federalism Commission to meet as often as necessary, at the discretion of the chairs of the Federalism Commission;
- ▶ amends provisions related to the Federalism Commission's role in reviewing federal laws for compliance with the principles of federalism;
- ▶ allows the Federalism Commission to contract with a third party to evaluate federal laws for compliance with the principles of federalism;
- ▶ increases membership of the Federalism Commission;
- ▶ requires attorneys employed by the state of Utah or political subdivisions to attend a seminar on the principles of federalism;
- ▶ creates the Federal Program Reserve Account to augment or replace federal funding that is rejected by the Legislature or otherwise no longer available;
- ▶ amends procedures of the federal fund review process to require the Federalism Commission to analyze federal funding and programs and work in conjunction with the Executive Appropriations Committee with regard to federal programs; and
- ▶ makes technical changes.

Money Appropriated in this Bill:



28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **63C-4a-302**, as last amended by Laws of Utah 2019, Chapter 246

34 **63C-4a-303**, as last amended by Laws of Utah 2019, Chapter 246

35 **63C-4a-304**, as renumbered and amended by Laws of Utah 2013, Chapter 101

36 **63C-4a-306**, as last amended by Laws of Utah 2019, Chapter 246

37 **63J-1-102**, as last amended by Laws of Utah 2019, Chapter 182

38 **63J-1-312**, as last amended by Laws of Utah 2019, Chapter 229

39 **63J-5-102**, as last amended by Laws of Utah 2018, Chapter 467

40 **63J-5-201**, as last amended by Laws of Utah 2021, Chapter 382

41 **63J-5-202**, as last amended by Laws of Utah 2021, Chapter 382

42 **63J-5-203**, as last amended by Laws of Utah 2016, Chapter 272

43 **63J-5-204**, as last amended by Laws of Utah 2016, Chapter 272

44 ENACTS:

45 **63J-1-316**, Utah Code Annotated 1953



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

48 Section 1. Section **63C-4a-302** is amended to read:

49 **63C-4a-302. Creation of Federalism Commission -- Membership -- Meetings --**
50 **Staff -- Expenses.**

51 (1) There is created the Federalism Commission, comprised of the following [~~nine~~] 12
52 members:

53 (a) the president of the Senate or the president of the Senate's designee who shall serve
54 as cochair of the commission;

55 (b) [~~two~~] three other members of the Senate, appointed by the president of the Senate;

56 (c) the speaker of the House or the speaker of the House's designee who shall serve as
57 cochair of the commission;

58 (d) [~~three~~] five other members of the House, appointed by the speaker of the House;

59 (e) the minority leader of the Senate or the minority leader of the Senate's designee;
60 and

61 (f) the minority leader of the House or the minority leader of the House's designee.

62 (2) (a) A majority of the members of the commission constitute a quorum of the
63 commission.

64 (b) Action by a majority of the members of a quorum constitutes action by the
65 commission.

66 [~~(3) The commission may meet up to nine times each year, unless additional meetings
67 are approved by the Legislative Management Committee.~~]

68 (3) The chairs of the commission may convene the commission, in the chairs'
69 discretion, as often as needed to carry out the duties of the commission as described in this part.

70 (4) The Office of Legislative Research and General Counsel shall provide staff support
71 to the commission.

72 (5) Compensation and expenses of a member of the commission who is a legislator are
73 governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and
74 Expenses.

75 (6) Nothing in this section prohibits the commission from closing a meeting under
76 Title 52, Chapter 4, Open and Public Meetings Act, or prohibits the commission from
77 complying with Title 63G, Chapter 2, Government Records Access and Management Act.

78 (7) The commission may, in the commission's discretion, elect to succeed to the
79 position of any of the following under a contract that any of the following are party to, subject
80 to applicable contractual provisions:

- 81 (a) the Commission on Federalism;
- 82 (b) the Commission for the Stewardship of Public Lands; and
- 83 (c) the Federal Funds Commission.

84 Section 2. Section 63C-4a-303 is amended to read:

85 **63C-4a-303. Federalism Commission to evaluate federal law -- Curriculum on**
86 **federalism.**

87 (1) (a) In accordance with Section 63C-4a-304, the commission may evaluate a federal
88 law:

89 [~~(a)~~] (i) as agreed by a majority of the commission; [~~or~~]

90 ~~(b)~~ (ii) submitted to the commission by a council member[-]; or
91 (iii) reported to the commission in accordance with Subsection (1)(b).
92 (b) (i) To assist the commission in the evaluation of federal law as required in this
93 section and Section 63C-4a-304, the commission may contract with a third party to monitor
94 federal law for possible implications on the principles of federalism.
95 (ii) A third party contracted to monitor federal law as described in Subsection (1)(b)(i)
96 shall:
97 (A) monitor federal law for possible implications on the principles of federalism and
98 state sovereignty; and
99 (B) report to the commission any law or action by the federal government that may
100 implicate the principles of federalism or state sovereignty.
101 (2) The commission may request information regarding a federal law under evaluation
102 from a United States senator or representative elected from the state.
103 (3) If the commission finds that a federal law is not authorized by the United States
104 Constitution or violates the principle of federalism as described in Subsection 63C-4a-304(2), a
105 commission cochair or the commission may:
106 (a) request from a United States senator or representative elected from the state:
107 (i) information about the federal law; or
108 (ii) assistance in communicating with a federal governmental entity regarding the
109 federal law;
110 (b) (i) give written notice of an evaluation made under Subsection (1) to the federal
111 governmental entity responsible for adopting or administering the federal law; and
112 (ii) request a response by a specific date to the evaluation from the federal
113 governmental entity; ~~and~~
114 (c) request a meeting, conducted in person or by electronic means, with the federal
115 governmental entity, a representative from another state, or a United States Senator or
116 Representative elected from the state to discuss the evaluation of federal law and any possible
117 remedy[-]; or
118 (d) give written notice of an evaluation and the conclusions of the commission to any
119 other relevant entity.
120 (4) The commission may recommend to the governor that the governor call a special

121 session of the Legislature to give the Legislature an opportunity to respond to the commission's
122 evaluation of a federal law.

123 (5) A commission cochair may coordinate the evaluation of and response to federal law
124 with another state as provided in Section 63C-4a-305.

125 (6) The commission shall keep a current list on the Legislature's website of:

126 (a) a federal law that the commission evaluates under Subsection (1);

127 (b) an action taken by a cochair of the commission or the commission under
128 Subsection (3);

129 (c) any coordination undertaken with another state under Section 63C-4a-305; and

130 (d) any response received from a federal government entity that was requested under
131 Subsection (3).

132 (7) The commission shall develop curriculum for a seminar on the principles of
133 federalism. The curriculum shall be available to the general public and include:

134 (a) fundamental principles of federalism;

135 (b) the sovereignty, supremacy, and jurisdiction of the individual states, including their
136 police powers;

137 (c) the history and practical implementation of the Tenth Amendment to the United
138 States Constitution;

139 (d) the authority and limits on the authority of the federal government as found in the
140 United States Constitution;

141 (e) the relationship between the state and federal governments;

142 (f) methods of evaluating a federal law in the context of the principles of federalism;

143 (g) how and when challenges should be made to a federal law or regulation on the basis
144 of federalism;

145 (h) the separate and independent powers of the state that serve as a check on the federal
146 government;

147 (i) first amendment rights and freedoms contained therein; and

148 (j) any other issues relating to federalism the commission considers necessary.

149 (8) The commission may apply for and receive grants, and receive private donations to
150 assist in funding the creation, enhancement, and dissemination of the curriculum.

151 (9) The commission shall submit a report on or before November 30 of each year to the

152 Government Operations Interim Committee and the Natural Resources, Agriculture, and
153 Environment Interim Committee that:

- 154 (a) describes any action taken by the commission under Section 63C-4a-303; and
- 155 (b) includes any proposed legislation the commission recommends.

156 Section 3. Section 63C-4a-304 is amended to read:

157 **63C-4a-304. Standard for evaluation of federal law.**

158 (1) The commission shall [~~evaluate~~] determine whether a federal law evaluated under
159 Section 63C-4a-303 is authorized by:

160 (a) United States Constitution, Article I, Section 2, to provide for the decennial census;

161 (b) United States Constitution, Article I, Section 4, to override state laws regulating the
162 times, places, and manner of congressional elections, other than the place of senatorial
163 elections;

164 (c) United States Constitution, Article I, Section 7, to veto bills, orders, and resolutions
165 by Congress;

166 (d) United States Constitution, Article I, Section 8, to:

167 (i) lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for
168 the common defense and general welfare of the United States, but all duties, imposts, and
169 excises shall be uniform throughout the United States;

170 (ii) borrow money on the credit of the United States;

171 (iii) regulate commerce with foreign nations, among the several states, and with the
172 Indian tribes;

173 (iv) establish a uniform rule of naturalization and uniform laws on the subject of
174 bankruptcies throughout the United States;

175 (v) coin money, regulate the value of coin money and of foreign coin, and fix the
176 standard of weights and measures;

177 (vi) provide for the punishment of counterfeiting the securities and current coin of the
178 United States;

179 (vii) establish post offices and post roads;

180 (viii) promote the progress of science and useful arts, by securing for limited times to
181 authors and inventors the exclusive right to their respective writings and discoveries;

182 (ix) constitute tribunals inferior to the supreme court;

183 (x) define and punish piracies and felonies committed on the high seas and offences
184 against the law of nations;

185 (xi) declare war, grant letters of marque and reprisal, and make rules concerning
186 captures on land and water;

187 (xii) raise and support armies, but no appropriation of money to that use shall be for a
188 longer term than two years;

189 (xiii) provide and maintain a navy;

190 (xiv) make rules for the government and regulation of the land and naval forces;

191 (xv) provide for calling forth the militia to execute the laws of the union, suppress
192 insurrections, and repel invasions;

193 (xvi) provide for organizing, arming, and disciplining the militia, and for governing the
194 part of the militia that may be employed in the service of the United States, reserving to the
195 states respectively, the appointment of the officers and the authority of training the militia
196 according to the discipline prescribed by Congress;

197 (xvii) exercise exclusive legislation in all cases whatsoever, over such district, which
198 may not exceed 10 miles square, as may, by cession of particular states and the acceptance of
199 Congress, become the seat of the government of the United States, and to exercise like
200 authority over all places purchased by the consent of the legislature of the state in which the
201 place shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful
202 buildings; or

203 (xviii) make all laws which shall be necessary and proper for carrying into execution
204 the powers listed in this section, and all other powers vested by the United States Constitution
205 in the government of the United States, or in any department or officer of the United States;

206 (e) United States Constitution, Article I, Section 9, to authorize a federal officer to
207 receive benefits from a foreign nation;

208 (f) United States Constitution, Article I, Section 10, to fix the pay of members of
209 Congress and of federal officers;

210 (g) United States Constitution, Article II, Section 1, to:

211 (i) set the time for choosing electors; or

212 (ii) establish who succeeded to the presidency after the vice president;

213 (h) United States Constitution, Article II, Section 2, to:

- 214 (i) serve as Commander-in-Chief of the armed forces;
- 215 (ii) require the written opinions of executive officers;
- 216 (iii) grant reprieves and pardons;
- 217 (iv) make vacancy appointments;
- 218 (v) make treaties, subject to the advice and consent of the United States Senate;
- 219 (vi) appoint foreign affairs officers subject to the advice and consent of the United
- 220 States Senate;
- 221 (vii) appoint domestic affairs officers subject either to the advice and consent of the
- 222 United States Senate or pursuant to law;
- 223 (viii) appoint judges subject to the advice and consent of the United States Senate; or
- 224 (ix) authorize the president to fill designated inferior offices without senatorial
- 225 consent;
- 226 (i) United States Constitution, Article II, Section 3, to:
- 227 (i) receive representatives of foreign powers;
- 228 (ii) execute the laws;
- 229 (iii) commission United States officers;
- 230 (iv) give Congress information;
- 231 (v) make recommendations to Congress;
- 232 (vi) convene Congress on extraordinary occasions; or
- 233 (vii) adjourn Congress if it cannot agree on a time;
- 234 (j) United States Constitution, Article III, Section 1, to:
- 235 (i) create exceptions to the supreme court's appellate jurisdiction;
- 236 (ii) fix the jurisdiction of federal courts inferior to the supreme court; or
- 237 (iii) declare the punishment for treason;
- 238 (k) United States Constitution, Article IV, Section 1, to establish the rules by which the
- 239 records and judgments of states are proved in other states;
- 240 (l) United States Constitution, Article IV, Section 3, to:
- 241 (i) manage federal property;
- 242 (ii) dispose of federal property;
- 243 (iii) govern the federal territories; or
- 244 (iv) consent to admission of new states or the combination of existing states;

245 (m) United States Constitution, Article IV, Section 4, to defend states from invasion,
246 insurrection, and non-republican forms of government;

247 (n) United States Constitution, Article V, Section 1, to propose constitutional
248 amendments;

249 (o) United States Constitution, Article VI, Section 1, to prescribe the oath for federal
250 officers;

251 (p) United States Constitution, Amendment XIII, to abolish slavery;

252 (q) United States Constitution, Amendment XIV, to guard people from certain state
253 abuses;

254 (r) United States Constitution, Amendment XVI, to impose taxes on income from any
255 source without having to apportion the total dollar amount of tax collected from each state
256 according to each state's population in relation to the total national population;

257 (s) United States Constitution, Amendment XX, to revise the manner of presidential
258 succession;

259 (t) United States Constitution, Amendment XV, XIX, XXIII, or XXIV, to extend and
260 protect the right to vote; or

261 (u) United States Constitution, Amendment XVII, to grant a pay raise to a sitting
262 Congress.

263 (2) The commission shall [~~evaluate~~] determine whether a federal law evaluated under
264 Section 63C-4a-303 violates the principle of federalism by:

265 (a) affecting the distribution of power and responsibility among the state and national
266 government;

267 (b) limiting the policymaking discretion of the state;

268 (c) impacting a power or a right reserved to the state or its citizens by the United States
269 Constitution, Amendment IX or X; or

270 (d) impacting the sovereignty rights and interest of the state or a political subdivision to
271 provide for the health, safety, and welfare and promote the prosperity of the state's or political
272 subdivision's inhabitants.

273 (3) In the evaluation of a federal law, the commission:

274 (a) shall rely on:

275 (i) the text of the United States Constitution, as amended;

276 (ii) the meaning of the text of the United States Constitution, as amended, at the time
277 of its drafting and ratification; and

278 (iii) a primary source document that is:

279 (A) directly relevant to the drafting, adoption, ratification, or initial implementation of
280 the United States Constitution, as amended; or

281 (B) created by a person directly involved in the drafting, adoption, ratification, or
282 initial implementation of the United States Constitution, as amended;

283 (b) may rely on other relevant sources, including federal court decisions; and

284 (c) is not bound by a holding by a federal court.

285 (4) If the commission determines that a federal law is not authorized as described in
286 this section or otherwise violates the principles of federalism, the commission shall make
287 appropriate recommendations to respond, including:

288 (a) a convention of the states pursuant to Article V of the United States Constitution;

289 (b) enacting state laws to refuse cooperation or acceptance of the federal law;

290 (c) legal challenges of the federal action;

291 (d) lobbying the state's congressional delegation and Congress as a whole;

292 (e) initiating or joining state-coordinated efforts of public and political education;

293 (f) writing letters to relevant federal agencies or leaders; or

294 (g) no action.

295 Section 4. Section **63C-4a-306** is amended to read:

296 **63C-4a-306. Course on federalism required.**

297 (1) This section applies to:

298 (a) all political subdivisions of the state;

299 (b) all agencies of the state;

300 (c) the Attorney General's office; and

301 (d) the Office of Legislative Research and General Counsel.

302 (2) An employing entity listed in Subsection (1) shall:

303 (a) appoint at least one designee to which all questions and inquiries regarding
304 federalism shall be directed[. ~~The designee shall be required~~]; and

305 (b) require each attorney employed by the employing entity described in Subsection (1)
306 to attend a seminar on the principles of federalism developed pursuant to Subsection

307 63C-4a-303(7) at least once in every two-year period.

308 (3) The designee may complete the requirements of this section by attending a seminar
309 in person or online.

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

311 **63J-1-102. Definitions.**

312 As used in this chapter:

313 (1) "Agency" means a unit of accounting, typically associated with a department,
314 division, board, council, committee, institution, office, bureau, or other similar administrative
315 unit of state government, that includes line items and programs.

316 (2) "Budget execution plan" means a proposal submitted by an administrative unit of
317 state government to the Division of Finance enumerating expected revenues and authorized
318 expenditures within line items and among programs.

319 (3) "Debt service" means the money that is required annually to cover the repayment of
320 interest and principal on state debt.

321 (4) (a) "Dedicated credits" means collections by an agency that fund agency operations.

322 (b) "Dedicated credits" includes:

323 (i) assessments;

324 (ii) sales of goods and materials;

325 (iii) sales of services;

326 (iv) permits, licenses, and other fees;

327 (v) fines, penalties, and forfeitures; and

328 (vi) rental revenue.

329 (c) "Dedicated credits" does not include:

330 (i) expendable receipts;

331 (ii) revenues otherwise designated by law for deposit into another fund or account;

332 (iii) federal revenues and the related pass through; or

333 (iv) revenues that are not deposited in governmental funds.

334 (5) (a) "Expendable receipts" means collections by an agency for expenditures that are
335 limited by a nonstate entity that provides the funds.

336 (b) "Expendable receipts" includes:

337 (i) grants;

338 (ii) state matches for federal revenues paid by a nonstate entity; and
339 (iii) rebates, including pharmacy rebates, that have similar restrictions on expenditures
340 as the original program.

341 (c) "Expendable receipts" does not include:

- 342 (i) dedicated credits;
- 343 (ii) revenues otherwise designated by law for deposit into another fund or account;
- 344 (iii) federal revenues and the related pass through; or
- 345 (iv) revenues that are not deposited into governmental funds.

346 (6) "Federal revenues" means collections by an agency from a federal source that are
347 deposited into an account for expenditure by the agency.

348 (7) "Federalism Commission" means the Federalism Commission created in Section
349 63C-4a-302.

350 [~~7~~] (8) "Free revenue" includes:

351 (a) collections that are required by law to be deposited in:

- 352 (i) the General Fund;
- 353 (ii) the Education Fund;
- 354 (iii) the Uniform School Fund; or
- 355 (iv) the Transportation Fund;

356 (b) collections that are not otherwise designated by law;

357 (c) collections that are not externally restricted; and

358 (d) collections that are not included in an approved budget execution plan.

359 [~~8~~] (9) "Grant" means the same as that term is defined in Section [63J-7-101](#).

360 [~~9~~] (10) (a) "Item of appropriation" means an authorization of expenditure contained
361 in legislation that appropriates funds and includes the following:

362 (i) the name of the agency and line item to which authorization is granted; and

363 (ii) sources of finance from which authorization is granted and associated amounts
364 authorized.

365 (b) "Item of appropriation" also includes:

366 (i) a schedule of programs;

367 (ii) intent language;

368 (iii) approved full-time equivalent employment;

369 (iv) authorized capital outlay; and
370 (v) other conditions of appropriation.

371 ~~[(10)]~~ (11) "Line item" means a unit of accounting, typically representing an
372 administrative unit of state government within an agency, that contains one or more programs.

373 ~~[(11)]~~ (12) "Major revenue types" means:

- 374 (a) free revenue;
- 375 (b) federal revenue;
- 376 (c) restricted revenue;
- 377 (d) dedicated credits; and
- 378 (e) expendable receipts.

379 ~~[(12)]~~ (13) "Program" means a unit of accounting included on a schedule of programs
380 within a line item used to track budget authorizations, collections, and expenditures on specific
381 purposes or functions.

382 ~~[(13)]~~ (14) "Restricted revenue" means collections that are:

- 383 (a) deposited, by law, into a separate fund, subfund, or account; and
- 384 (b) designated for a specific program or purpose.

385 ~~[(14)]~~ (15) "Schedule of programs" means a list of programs and associated
386 authorization amounts within an item of appropriation.

387 Section 6. Section **63J-1-312** is amended to read:

388 **63J-1-312. Establishing a General Fund Budget Reserve Account -- Providing for**
389 **deposits and expenditures from the account -- Providing for interest generated by the**
390 **account.**

391 (1) As used in this section:

392 (a) "Education Fund budget deficit" means a situation where appropriations made by
393 the Legislature from the Education Fund for a fiscal year exceed the estimated revenues
394 adopted by the Executive Appropriations Committee of the Legislature for the Education Fund
395 in that fiscal year.

396 (b) "General Fund appropriations" means the sum of the spending authority for a fiscal
397 year that is:

- 398 (i) granted by the Legislature in all appropriation acts and bills; and
- 399 (ii) identified as coming from the General Fund.

400 (c) "General Fund budget deficit" means a situation where General Fund appropriations
401 made by the Legislature for a fiscal year exceed the estimated revenues adopted by the
402 Executive Appropriations Committee of the Legislature for the General Fund in that fiscal year.

403 (d) "General Fund revenue surplus" means a situation where actual General Fund
404 revenues collected in a completed fiscal year exceed the estimated revenues for the General
405 Fund for that fiscal year that were adopted by the Executive Appropriations Committee of the
406 Legislature.

407 (e) "Operating deficit" means that, at the end of the fiscal year, the unassigned fund
408 balance in the General Fund is less than zero.

409 (2) There is created within the General Fund a restricted account to be known as the
410 General Fund Budget Reserve Account, which is designated to receive the legislative
411 appropriations and the surplus revenue required to be deposited into the account by this section.

412 (3) (a) (i) Except as provided in Subsection (3)(a)(ii), at the end of any fiscal year in
413 which the Division of Finance, in consultation with the Legislative Fiscal Analyst and in
414 conjunction with the completion of the annual audit by the state auditor, determines that there
415 is a General Fund revenue surplus, the Division of Finance shall transfer:

416 (A) 25% of the General Fund revenue surplus to the General Fund Budget Reserve
417 Account[-]; and

418 (B) 25% of the General Fund revenue surplus to the Federal Program Reserve Account
419 created in Section [63J-1-316](#).

420 (ii) If the transfer of 25% of the General Fund revenue surplus to the General Fund
421 Budget Reserve Account would cause the balance in the account to exceed 9% of General Fund
422 appropriations for the fiscal year in which the revenue surplus occurred, the Division of
423 Finance shall transfer only those funds necessary to ensure that the balance in the account
424 equals 9% of General Fund appropriations for the fiscal year in which the General Fund
425 revenue surplus occurred.

426 (iii) The Division of Finance shall calculate the amount to be transferred under this
427 Subsection (3)(a):

428 (A) after making the transfer of General Fund revenue surplus to the Medicaid Growth
429 Reduction and Budget Stabilization Account, as provided in Section [63J-1-315](#);

430 (B) before transferring from the General Fund revenue surplus any other year-end

431 contingency appropriations, year-end set-asides, or other year-end transfers required by law;
432 and

433 (C) excluding any direct legislative appropriation made to the General Fund Budget
434 Reserve Account for the fiscal year.

435 (b) (i) Except as provided in Subsection (3)(b)(ii), in addition to Subsection (3)(a)(i), if
436 a General Fund revenue surplus exists and if, within the last 10 years, the Legislature has
437 appropriated any money from the General Fund Budget Reserve Account that has not been
438 replaced by appropriation or as provided in this Subsection (3)(b), the Division of Finance shall
439 transfer up to 25% more of the General Fund revenue surplus to the General Fund Budget
440 Reserve Account to replace the amounts appropriated, until direct legislative appropriations, if
441 any, and transfers from the General Fund revenue surplus under this Subsection (3)(b) have
442 replaced the appropriations from the account.

443 (ii) If the transfer under Subsection (3)(b)(i) would cause the balance in the account to
444 exceed 9% of General Fund appropriations for the fiscal year in which the revenue surplus
445 occurred, the Division of Finance shall transfer only those funds necessary to ensure that the
446 balance in the account equals 9% of General Fund appropriations for the fiscal year in which
447 the revenue surplus occurred.

448 (iii) The Division of Finance shall calculate the amount to be transferred under this
449 Subsection (3)(b):

450 (A) after making the transfer of General Fund revenue surplus to the Medicaid Growth
451 Reduction and Budget Stabilization Account, as provided in Section [63J-1-315](#);

452 (B) before transferring from the General Fund revenue surplus any other year-end
453 contingency appropriations, year-end set-asides, or other year-end transfers required by law;
454 and

455 (C) excluding any direct legislative appropriation made to the General Fund Budget
456 Reserve Account for the fiscal year.

457 (c) For appropriations made by the Legislature to the General Fund Budget Reserve
458 Account, the Division of Finance shall treat those appropriations, unless otherwise specified in
459 the appropriation, as replacement funds for appropriations made from the account if funds were
460 appropriated from the General Fund Budget Reserve Account within the past 10 years and have
461 not yet been replaced.

462 (4) The Legislature may appropriate money from the General Fund Budget Reserve
463 Account only to:

464 (a) resolve a General Fund budget deficit, for the fiscal year in which the General Fund
465 budget deficit occurs;

466 (b) pay some or all of state settlement agreements approved under Title 63G, Chapter
467 10, State Settlement Agreements Act;

468 (c) pay claims approved under Section 63G-9-304;

469 (d) pay retroactive tax refunds; or

470 (e) resolve an Education Fund budget deficit~~[, or]~~.

471 ~~[(f) finance an existing federally funded program or activity when:]~~

472 ~~[(i) the federal funds expected to fund the federal program or activity are not available
473 to fund the program or activity; and]~~

474 ~~[(ii) the Legislature and governor concurrently determine that the program or activity is
475 essential.]~~

476 (5) Interest generated from investments of money in the General Fund Budget Reserve
477 Account shall be deposited into the General Fund.

478 Section 7. Section 63J-1-316 is enacted to read:

479 **63J-1-316. Establishing a Federal Program Reserve Account.**

480 (1) There is created within the General Fund a restricted account to be known as the
481 Federal Program Reserve Account.

482 (2) The Federal Program Reserve Account shall consist of money from the following
483 revenue sources:

484 (a) money deposited into the account as described in Section 63J-1-312;

485 (b) appropriations made by the Legislature; and

486 (c) interest generated by the Federal Program Reserve Account.

487 (3) The Legislature may appropriate money from the Federal Program Reserve
488 Account only to finance an existing federally funded program or activity when:

489 (a) the federal funds expected to fund the federal program or activity are rejected or are
490 otherwise not available to fund the program or activity; and

491 (b) the Legislature and governor concurrently determine that the program or activity is
492 essential.

493 Section 8. Section **63J-5-102** is amended to read:

494 **63J-5-102. Definitions.**

495 (1) As used in this chapter:

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

498 (ii) "Agency" includes:

499 (A) executive branch entities;

500 (B) judicial branch entities; and

501 (C) the State Board of Education.

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

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

506 (ii) "Federal funds" includes federal assistance and federal assistance programs,
507 however described.

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

511 (c) "Federal funds reauthorization" means:

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

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

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

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

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

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

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

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

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

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

536 (A) the letter awarding an agency a grant of federal funds or other official
537 documentation awarding an agency a grant of federal funds; and

538 (B) a document detailing federal maintenance of effort requirements.

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

542 (f) "Federalism Commission" means the Federalism Commission created in Section
543 [63C-4a-302](#).

544 ~~(f)~~ (g) (i) "Intergovernmental transfer program" means an existing reimbursement
545 program or category that is authorized by the Medicaid state plan or waiver authority for
546 intergovernmental transfers.

547 (ii) "Intergovernmental transfer program" does not include the addition of a provider to
548 an existing intergovernmental transfer program.

549 ~~(g)~~ (h) "Local education agency" or "LEA" means:

550 (i) a school district;

551 (ii) a charter school; or

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

553 ~~(h)~~ (i) "New federal funds" means:

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

555 government that:

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

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

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

561 (iii) a one-time TANF request.

562 ~~[(j)]~~ (j) "New federal funds request" means:

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

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

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

567 (ii) a one-time TANF request.

568 ~~[(j)]~~ (k) (i) "New state money" means money, whether specifically appropriated by the
569 Legislature or not, that the federal government requires Utah to expend as a condition for
570 receiving the federal funds or participating in the federal program.

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

573 ~~[(k)]~~ (l) "One-time TANF request" means a proposed expenditure by the Department of
574 Workforce Services from its reserves of federal Temporary Assistance for Needy Families
575 funds:

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

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

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

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

585 ~~[(m)]~~ (n) "State" means the state of Utah and all of its agencies, and any administrative

586 subunits of those agencies.

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

590 Section 9. Section **63J-5-201** is amended to read:

591 **63J-5-201. Legislative appropriation subcommittees to review certain federal**
592 **funds reauthorizations -- Executive appropriations review -- Legislative approval.**

593 (1) The Governor's Office of Planning and Budget shall annually prepare and submit a
594 federal funds request summary for each agency to the Legislative Fiscal Analyst at the same
595 time the governor submits the confidential draft budget under Section **63J-1-201**.

596 (2) (a) The Legislative Fiscal Analyst, as directed by the Executive Appropriations
597 Committee, may include federal funds in the base budget appropriations act or acts, when those
598 acts are prepared as provided in JR3-2-402.

599 (b) The Legislative Fiscal Analyst shall submit a federal funds request summary for
600 each agency to the [~~legislative appropriations subcommittee responsible for that agency's~~
601 ~~budget~~] Federalism Commission for review during each annual general session.

602 (3) [~~Each legislative appropriations subcommittee~~] The Federalism Commission shall
603 review the federal funds request summary and may:

604 (a) recommend that the agency accept the federal funds or participate in the federal
605 program for the fiscal year under consideration; or

606 (b) recommend that the agency not accept the federal funds or not participate in the
607 federal program for the fiscal year under consideration.

608 (4) The Legislative Executive Appropriations Committee shall:

609 (a) review each [~~subcommittee's~~] recommendation from the Federalism Commission;

610 (b) determine whether or not the agency should be authorized to accept the federal
611 funds or participate in the federal program; and

612 (c) direct the Legislative Fiscal Analyst to include or exclude those federal funds and
613 federal programs in an annual appropriations act for approval by the Legislature.

614 (5) Legislative approval of an appropriations act containing federal funds constitutes
615 legislative approval of the federal grants or awards associated with the federal funds for the
616 purposes of compliance with the requirements of this chapter.

617 Section 10. Section **63J-5-202** is amended to read:

618 **63J-5-202. Governor to approve certain new federal funds requests.**

619 (1) (a) Before obligating the state to accept or receive new federal funds or to
620 participate in a new federal program, and no later than three months after submitting a new
621 federal funds request, and, where possible, before formally submitting the new federal funds
622 request, an executive branch agency shall submit a federal funds request summary to the
623 governor or the governor's designee for approval or rejection when:

624 (i) the state will receive total payments of \$1,000,000 or less per year if the new federal
625 funds request is approved;

626 (ii) receipt of the new federal funds will require no additional permanent full-time
627 employees, permanent part-time employees, or combination of additional permanent full-time
628 employees and permanent part-time employees; and

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

631 (b) The Governor's Office of Planning and Budget shall report each new federal funds
632 request that is approved by the governor or the governor's designee and each new federal funds
633 request granted by the federal government to:

634 (i) the Legislature's Executive Appropriations Committee;

635 (ii) the Federalism Commission;

636 ~~[(ii)]~~ (iii) the Office of the Legislative Fiscal Analyst; and

637 ~~[(iii)]~~ (iv) the Office of Legislative Research and General Counsel.

638 (2) The governor or the governor's designee shall approve or reject each new federal
639 funds request submitted under the authority of this section.

640 (3) (a) If the governor or the governor's designee approves the new federal funds
641 request, the executive branch agency may accept the new federal funds or participate in the new
642 federal program.

643 (b) If the governor or the governor's designee rejects the new federal funds request, the
644 executive branch agency may not accept the new federal funds or participate in the new federal
645 program.

646 (4) If an executive branch agency fails to obtain the governor's or the governor's
647 designee's approval under this section, the governor may require the agency to:

- 648 (a) withdraw the new federal funds request;
- 649 (b) return the federal funds;
- 650 (c) withdraw from the federal program; or
- 651 (d) any combination of Subsections (4)(a), (4)(b), and (4)(c).
- 652 (5) If a letter or other official documentation awarding an agency a grant of federal
- 653 funds is not available to be included in a federal funds request summary submitted to the
- 654 Governor's Office of Planning and Budget under this section, the agency shall submit to the
- 655 Governor's Office of Planning and Budget the letter or other official documentation awarding
- 656 the agency a grant of federal funds before expending the federal funds granted.

657 Section 11. Section **63J-5-203** is amended to read:

658 **63J-5-203. Judicial council to approve certain new federal funds requests.**

659 (1) (a) Before obligating the state to accept or receive new federal funds or to

660 participate in a new federal program, and no later than three months after submitting a new

661 federal funds request, and, where possible, before formally submitting the new federal funds

662 request, a judicial branch agency shall submit a federal funds request summary to the Judicial

663 Council for its approval or rejection when:

664 (i) the state will receive total payments of \$1,000,000 or less per year if the new federal

665 funds request is approved;

666 (ii) receipt of the new federal funds will require no additional permanent full-time

667 employees, additional permanent part-time employees, or combination of additional permanent

668 full-time employees and permanent part-time employees; and

669 (iii) no new state money will be required to match the new federal funds or to

670 implement the new federal program for which the grant is issued.

671 (b) The Judicial Council shall report each new federal funds request that is approved by

672 it and each new federal funds request granted by the federal government to:

673 (i) the Legislature's Executive Appropriations Committee;

674 (ii) the Federalism Commission;

675 [~~(i)~~] (iii) the Office of the Legislative Fiscal Analyst; and

676 [~~(ii)~~] (iv) the Office of Legislative Research and General Counsel.

677 (2) The Judicial Council shall approve or reject each new federal funds request

678 submitted to it under the authority of this section.

679 (3) (a) If the Judicial Council approves the new federal funds request, the judicial
680 branch agency may accept the new federal funds or participate in the new federal program.

681 (b) If the Judicial Council rejects the new federal funds request, the judicial branch
682 agency may not accept the new federal funds or participate in the new federal program.

683 (4) If a judicial branch agency fails to obtain the Judicial Council's approval under this
684 section, the Judicial Council may require the agency to:

685 (a) withdraw the new federal funds request;

686 (b) return the federal funds;

687 (c) withdraw from the federal program; or

688 (d) any combination of Subsections (4)(a), (4)(b), and (4)(c).

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

694 Section 12. Section **63J-5-204** is amended to read:

695 **63J-5-204. Legislative review and approval of certain federal funds requests.**

696 (1) As used in this section:

697 (a) "High impact federal funds request" means a new federal funds request that will or
698 could:

699 (i) result in the state receiving total payments of \$10,000,000 or more per year from the
700 federal government;

701 (ii) require the state to add 11 or more permanent full-time employees, 11 or more
702 permanent part-time employees, or combination of permanent full-time and permanent
703 part-time employees equal to 11 or more in order to receive the new federal funds or participate
704 in the new federal program; or

705 (iii) require the state to expend more than \$1,000,000 of new state money in a fiscal
706 year in order to receive or administer the new federal funds or participate in the new federal
707 program.

708 (b) "Medium impact federal funds request" means a new federal funds request that will
709 or could:

710 (i) result in the state receiving total payments of more than \$1,000,000 but less than
711 \$10,000,000 per year from the federal government;

712 (ii) require the state to add more than zero but less than 11 permanent full-time
713 employees, more than zero but less than 11 permanent part-time employees, or a combination
714 of permanent full-time employees and permanent part-time employees equal to more than zero
715 but less than 11 in order to receive or administer the new federal funds or participate in the new
716 federal program; or

717 (iii) require the state to expend \$1 to \$1,000,000 of new state money in a fiscal year in
718 order to receive or administer the new federal funds or participate in the new federal program.

719 (2) (a) (i) Before obligating the state to accept or receive new federal funds or to
720 participate in a new federal program under a medium impact federal funds request that was not
721 authorized during a legislative session as provided in Section 63J-5-201, an agency shall:

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

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

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

731 (b) The Legislative Executive Appropriations Committee, in consultation with the
732 Federalism Commission, shall review the federal funds request summary and may:

733 (i) recommend that the agency accept the new federal funds;

734 (ii) recommend that the agency not accept the new federal funds; or

735 (iii) recommend to the governor that the governor call a special session of the
736 Legislature to review and approve or reject the acceptance of the new federal funds.

737 (3) (a) (i) Before obligating the state to accept or receive new federal funds or to
738 participate in a new federal program under a high impact federal funds request that was not
739 authorized during a legislative session as provided in Section 63J-5-201, an agency shall:

740 (A) submit the federal funds request summary to the governor, the Judicial Council, or

741 the State Board of Education, as appropriate, for approval or rejection; and

742 (B) if the governor, the Judicial Council, or the State Board of Education approves the
743 new federal funds request, submit the federal funds request summary to the Legislature for its
744 approval or rejection in an annual general session or a special session.

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

748 (b) (i) If the Legislature approves the new federal funds request, the agency may accept
749 the new federal funds or participate in the new federal program.

750 (ii) If the Legislature fails to approve the new federal funds request, the agency may not
751 accept the new federal funds or participate in the new federal program.

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

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

757 (b) the Legislature may, if federal law allows, opt out or decline to participate in the
758 new federal program or decline to receive the new federal funds; or

759 (c) the Legislature may reduce the agency's General Fund appropriation in an amount
760 less than, equal to, or greater than the amount of federal funds received by the agency.

761 (5) If a letter or other official documentation awarding an agency a grant of federal
762 funds is not available to be included in the agency's federal funds request summary to the
763 governor, the Judicial Council, or the State Board of Education, as appropriate, under this
764 section, the agency shall submit to the governor, the Judicial Council, or the State Board of
765 Education, as appropriate, the letter or other official documentation awarding the agency a
766 grant of federal funds before expending the federal funds granted.