

**Representative Ken Ivory** proposes the following substitute bill:

**FEDERALISM COMMISSION AMENDMENTS**

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Ken Ivory**

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

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**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;
- ▶ allows the Federalism Commission to analyze and provide recommendations on federal funds and federal programs; and
- ▶ makes technical changes.



26 **Money Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **63C-4a-302**, as last amended by Laws of Utah 2019, Chapter 246

33 **63C-4a-303**, as last amended by Laws of Utah 2019, Chapter 246

34 **63C-4a-304**, as renumbered and amended by Laws of Utah 2013, Chapter 101

35 **63C-4a-306**, as last amended by Laws of Utah 2019, Chapter 246

36 **63J-1-102**, as last amended by Laws of Utah 2019, Chapter 182

37 **63J-1-312**, as last amended by Laws of Utah 2019, Chapter 229

38 **63J-5-102**, as last amended by Laws of Utah 2018, Chapter 467

39 **63J-5-201**, as last amended by Laws of Utah 2021, Chapter 382

40 **63J-5-202**, as last amended by Laws of Utah 2021, Chapter 382

41 **63J-5-203**, as last amended by Laws of Utah 2016, Chapter 272

42 ENACTS:

43 **63J-1-316**, Utah Code Annotated 1953



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

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

47 **63C-4a-302. Creation of Federalism Commission -- Membership -- Meetings --**  
48 **Staff -- Expenses.**

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

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

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

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

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

57 (e) the minority leader of the Senate or the minority leader of the Senate's designee;  
58 and

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

60 (2) (a) A majority of the members of the commission constitute a quorum of the  
61 commission.

62 (b) Action by a majority of the members of a quorum constitutes action by the  
63 commission.

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

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

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

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

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

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

79 (a) the Commission on Federalism;

80 (b) the Commission for the Stewardship of Public Lands; and

81 (c) the Federal Funds Commission.

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

83 **63C-4a-303. Federalism Commission to evaluate federal law -- Curriculum on**  
84 **federalism.**

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

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

88 ~~[(b)]~~ (ii) submitted to the commission by a council member[-]; or  
89 (iii) reported to the commission in accordance with Subsection (1)(b).

90 (b) (i) To assist the commission in the evaluation of federal law as required in this  
91 section and Section 63C-4a-304, the commission may contract with a third party to monitor  
92 federal law for possible implications on the principles of federalism.

93 (ii) A third party contracted to monitor federal law as described in Subsection (1)(b)(i)  
94 shall:

95 (A) monitor federal law for possible implications on the principles of federalism and  
96 state sovereignty; and

97 (B) report to the commission any law or action by the federal government that may  
98 implicate the principles of federalism or state sovereignty.

99 (2) The commission may request information regarding a federal law under evaluation  
100 from a United States senator or representative elected from the state.

101 (3) If the commission finds that a federal law is not authorized by the United States  
102 Constitution or violates the principle of federalism as described in Subsection 63C-4a-304(2), a  
103 commission cochair or the commission may:

104 (a) request from a United States senator or representative elected from the state:

105 (i) information about the federal law; or

106 (ii) assistance in communicating with a federal governmental entity regarding the  
107 federal law;

108 (b) (i) give written notice of an evaluation made under Subsection (1) to the federal  
109 governmental entity responsible for adopting or administering the federal law; and

110 (ii) request a response by a specific date to the evaluation from the federal  
111 governmental entity; ~~[and]~~

112 (c) request a meeting, conducted in person or by electronic means, with the federal  
113 governmental entity, a representative from another state, or a United States Senator or  
114 Representative elected from the state to discuss the evaluation of federal law and any possible  
115 remedy[-]; or

116 (d) give written notice of an evaluation and the conclusions of the commission to any  
117 other relevant entity.

118 (4) The commission may recommend to the governor that the governor call a special

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

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

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

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

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

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

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

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

132 (a) fundamental principles of federalism;

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

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

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

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

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

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

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

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

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

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

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

150 Government Operations Interim Committee and the Natural Resources, Agriculture, and  
151 Environment Interim Committee that:

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

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

155 **63C-4a-304. Standard for evaluation of federal law.**

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

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

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

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

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

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

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

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

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

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

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

177 (vii) establish post offices and post roads;

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

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

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

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

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

187 (xiii) provide and maintain a navy;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

263 (a) affecting the distribution of power and responsibility among the state and national  
264 government;

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

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

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

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

272 (a) shall rely on:

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

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

276 (iii) a primary source document that is:

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

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

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

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

283 (4) (a) If the commission determines that a federal law is not authorized as described in  
284 this section or otherwise violates the principles of federalism:

285 (i) for a policy already adopted by the Legislature or for which the Legislature has  
286 already taken action, the commission may make appropriate recommendations or take  
287 appropriate actions described in Subsection (4)(b) in response to the federal law; or

288 (ii) for a policy not described in Subsection (4)(a)(i), the commission may, in  
289 consultation with the speaker of the House of Representative and the president of the Senate,  
290 make appropriate recommendations or take appropriate actions described in Subsection (4)(b)  
291 in response to the federal law.

292 (b) An action or recommendation of the commission as described in Subsection (4)(a)  
293 in response to a federal law that the commission determines is not authorized in this section or  
294 otherwise violates the principles of federalism include:

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

296 (ii) enacting state laws to assert, defend, and preserve the constitutional allocation and  
297 balance of governing powers between the federal government and the state;

298 (iii) legal challenges of the federal action;

299 (iv) outreach, coordination, or lobbying with the state's congressional delegation and  
300 Congress as a whole;

301 (v) outreach and coordination with state and local government officers and agencies;

302 (vi) initiating or joining multi-state action;

303 (vii) initiating or coordinating public education efforts;

304 (viii) correspondence with relevant federal agencies or leaders; or

305 (ix) no action.

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

307 **63C-4a-306. Course on federalism required.**

308 (1) This section applies to:

309 (a) all political subdivisions of the state;

310 (b) all agencies of the state;

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

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

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

314 (a) appoint at least one designee to which all questions and inquiries regarding

315 federalism shall be directed~~[- The designee shall be required];~~ and

316 (b) require each attorney employed by the employing entity described in Subsection (1)

317 to attend a seminar on the principles of federalism developed pursuant to Subsection

318 **63C-4a-303**(7) at least once in every two-year period.

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

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

322 **63J-1-102. Definitions.**

323 As used in this chapter:

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

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

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

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

333 (b) "Dedicated credits" includes:

334 (i) assessments;

335 (ii) sales of goods and materials;

- 336 (iii) sales of services;
- 337 (iv) permits, licenses, and other fees;
- 338 (v) fines, penalties, and forfeitures; and
- 339 (vi) rental revenue.
- 340 (c) "Dedicated credits" does not include:
- 341 (i) expendable receipts;
- 342 (ii) revenues otherwise designated by law for deposit into another fund or account;
- 343 (iii) federal revenues and the related pass through; or
- 344 (iv) revenues that are not deposited in governmental funds.
- 345 (5) (a) "Expendable receipts" means collections by an agency for expenditures that are
- 346 limited by a nonstate entity that provides the funds.
- 347 (b) "Expendable receipts" includes:
- 348 (i) grants;
- 349 (ii) state matches for federal revenues paid by a nonstate entity; and
- 350 (iii) rebates, including pharmacy rebates, that have similar restrictions on expenditures
- 351 as the original program.
- 352 (c) "Expendable receipts" does not include:
- 353 (i) dedicated credits;
- 354 (ii) revenues otherwise designated by law for deposit into another fund or account;
- 355 (iii) federal revenues and the related pass through; or
- 356 (iv) revenues that are not deposited into governmental funds.
- 357 (6) "Federal revenues" means collections by an agency from a federal source that are
- 358 deposited into an account for expenditure by the agency.
- 359 (7) "Federalism Commission" means the Federalism Commission created in Section
- 360 [63C-4a-302.](#)
- 361 [(7)] (8) "Free revenue" includes:
- 362 (a) collections that are required by law to be deposited in:
- 363 (i) the General Fund;
- 364 (ii) the Education Fund;
- 365 (iii) the Uniform School Fund; or
- 366 (iv) the Transportation Fund;

- 367 (b) collections that are not otherwise designated by law;
- 368 (c) collections that are not externally restricted; and
- 369 (d) collections that are not included in an approved budget execution plan.
- 370 ~~[(8)]~~ (9) "Grant" means the same as that term is defined in Section [63J-7-101](#).
- 371 ~~[(9)]~~ (10) (a) "Item of appropriation" means an authorization of expenditure contained
- 372 in legislation that appropriates funds and includes the following:
- 373 (i) the name of the agency and line item to which authorization is granted; and
- 374 (ii) sources of finance from which authorization is granted and associated amounts
- 375 authorized.
- 376 (b) "Item of appropriation" also includes:
- 377 (i) a schedule of programs;
- 378 (ii) intent language;
- 379 (iii) approved full-time equivalent employment;
- 380 (iv) authorized capital outlay; and
- 381 (v) other conditions of appropriation.
- 382 ~~[(10)]~~ (11) "Line item" means a unit of accounting, typically representing an
- 383 administrative unit of state government within an agency, that contains one or more programs.
- 384 ~~[(11)]~~ (12) "Major revenue types" means:
- 385 (a) free revenue;
- 386 (b) federal revenue;
- 387 (c) restricted revenue;
- 388 (d) dedicated credits; and
- 389 (e) expendable receipts.
- 390 ~~[(12)]~~ (13) "Program" means a unit of accounting included on a schedule of programs
- 391 within a line item used to track budget authorizations, collections, and expenditures on specific
- 392 purposes or functions.
- 393 ~~[(13)]~~ (14) "Restricted revenue" means collections that are:
- 394 (a) deposited, by law, into a separate fund, subfund, or account; and
- 395 (b) designated for a specific program or purpose.
- 396 ~~[(14)]~~ (15) "Schedule of programs" means a list of programs and associated
- 397 authorization amounts within an item of appropriation.

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

399 **63J-1-312. Establishing a General Fund Budget Reserve Account -- Providing for**  
400 **deposits and expenditures from the account -- Providing for interest generated by the**  
401 **account.**

402 (1) As used in this section:

403 (a) "Education Fund budget deficit" means a situation where appropriations made by  
404 the Legislature from the Education Fund for a fiscal year exceed the estimated revenues  
405 adopted by the Executive Appropriations Committee of the Legislature for the Education Fund  
406 in that fiscal year.

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

409 (i) granted by the Legislature in all appropriation acts and bills; and

410 (ii) identified as coming from the General Fund.

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

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

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

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

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

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

429            (B) 25% of the General Fund revenue surplus to the Federal Program Reserve Account  
430 created in Section 63J-1-316.

431            (ii) If the transfer of 25% of the General Fund revenue surplus to the General Fund  
432 Budget Reserve Account would cause the balance in the account to exceed 9% of General Fund  
433 appropriations for the fiscal year in which the revenue surplus occurred, the Division of  
434 Finance shall transfer only those funds necessary to ensure that the balance in the account  
435 equals 9% of General Fund appropriations for the fiscal year in which the General Fund  
436 revenue surplus occurred.

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

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

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

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

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

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

459            (iii) The Division of Finance shall calculate the amount to be transferred under this

460 Subsection (3)(b):

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

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

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

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

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

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

477 (b) pay some or all of state settlement agreements approved under Title 63G, Chapter  
478 10, State Settlement Agreements Act;

479 (c) pay claims approved under Section [63G-9-304](#);

480 (d) pay retroactive tax refunds; or

481 (e) resolve an Education Fund budget deficit[~~; or~~].

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

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

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

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

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

490 **63J-1-316. Establishing a Federal Program Reserve Account.**

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

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

495 (a) money deposited into the account as described in Section [63J-1-312](#);

496 (b) appropriations made by the Legislature; and

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

498 (3) The Legislature may appropriate money from the Federal Program Reserve

499 Account only to finance an existing federally funded program or activity when:

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

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

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

505 **63J-5-102. Definitions.**

506 (1) As used in this chapter:

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

509 (ii) "Agency" includes:

510 (A) executive branch entities;

511 (B) judicial branch entities; and

512 (C) the State Board of Education.

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

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

517 (ii) "Federal funds" includes federal assistance and federal assistance programs,  
518 however described.

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

522 (c) "Federal funds reauthorization" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

553 (f) "Federalism Commission" means the Federalism Commission created in Section  
554 [63C-4a-302.](#)

555 [~~(f)~~] (g) (i) "Intergovernmental transfer program" means an existing reimbursement  
556 program or category that is authorized by the Medicaid state plan or waiver authority for  
557 intergovernmental transfers.

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

560 [~~(g)~~] (h) "Local education agency" or "LEA" means:

561 (i) a school district;

562 (ii) a charter school; or

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

564 [~~(h)~~] (i) "New federal funds" means:

565 (i) federal assistance or other federal funds that are available from the federal  
566 government that:

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

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

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

572 (iii) a one-time TANF request.

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

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

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

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

578 (ii) a one-time TANF request.

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

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

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

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

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

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

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

596           ~~[(m)]~~ (n) "State" means the state of Utah and all of its agencies, and any administrative  
597 subunits of those agencies.

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

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

602           **63J-5-201. Legislative appropriation subcommittees to review certain federal**  
603 **funds reauthorizations -- Executive appropriations review -- Legislative approval.**

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

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

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

613           (3) (a) Each legislative appropriations subcommittee shall review the federal funds  
614 request summary and may:

615            [~~(a)~~] (i) recommend that the agency accept the federal funds or participate in the federal  
616 program for the fiscal year under consideration; or

617            [~~(b)~~] (ii) recommend that the agency not accept the federal funds or not participate in  
618 the federal program for the fiscal year under consideration.

619            (b) The Federalism Commission may review federal funds requests and provide  
620 recommendations regarding the possible implications of the principles of federalism and state  
621 sovereignty.

622            (4) The Legislative Executive Appropriations Committee shall:

623            (a) review each subcommittee's recommendation;

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

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

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

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

632            **63J-5-202. Governor to approve certain new federal funds requests.**

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

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

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

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

645            (b) The Governor's Office of Planning and Budget shall report each new federal funds

646 request that is approved by the governor or the governor's designee and each new federal funds  
647 request granted by the federal government to:

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

649 (ii) the Federalism Commission;

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

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

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

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

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

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

662 (a) withdraw the new federal funds request;

663 (b) return the federal funds;

664 (c) withdraw from the federal program; or

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

666 (5) If a letter or other official documentation awarding an agency a grant of federal  
667 funds is not available to be included in a federal funds request summary submitted to the  
668 Governor's Office of Planning and Budget under this section, the agency shall submit to the  
669 Governor's Office of Planning and Budget the letter or other official documentation awarding  
670 the agency a grant of federal funds before expending the federal funds granted.

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

672 **63J-5-203. Judicial council to approve certain new federal funds requests.**

673 (1) (a) Before obligating the state to accept or receive new federal funds or to  
674 participate in a new federal program, and no later than three months after submitting a new  
675 federal funds request, and, where possible, before formally submitting the new federal funds  
676 request, a judicial branch agency shall submit a federal funds request summary to the Judicial

677 Council for its approval or rejection when:

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

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

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

685 (b) The Judicial Council shall report each new federal funds request that is approved by  
686 it and each new federal funds request granted by the federal government to:

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

688 (ii) the Federalism Commission;

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

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

691 (2) The Judicial Council shall approve or reject each new federal funds request  
692 submitted to it under the authority of this section.

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

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

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

699 (a) withdraw the new federal funds request;

700 (b) return the federal funds;

701 (c) withdraw from the federal program; or

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

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

708