

HB0335S03 compared with HB0335S02

~~text~~ shows text that was in HB0335S02 but was deleted in HB0335S03.

inserted text shows text that was not in HB0335S02 but was inserted into HB0335S03.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

~~Representative Val L. Peterson~~ Senator Kathleen A. Riebe proposes the following substitute bill:

STATE GRANT PROCESS AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Val L. Peterson

Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This bill enacts provisions governing the administration of state grants.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides eligibility requirements for a competitive grant recipient;
- ▶ requires that a competitive grant recipient provide a proposed budget and agree to deliverables, reporting, audit, and clawback requirements before receiving any grant funds;
- ▶ addresses the disbursement schedule for grant funds;
- ▶ provides for review after a specified time of a competitive grant funded by an

HB0335S03 compared with HB0335S02

ongoing appropriation;

- ▶ ~~{provides requirements specific to}~~prohibits direct award grants~~{and competitive grants}~~, except during a declared state of emergency; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

11-41-102, as last amended by Laws of Utah 2023, Chapters 16, 34

63J-1-201, as last amended by Laws of Utah 2021, Chapters 382, 421

~~**63N-1a-307**, as enacted by Laws of Utah 2022, Chapter 362~~

~~**65A-16-201**~~, as enacted by Laws of Utah 2022, Chapter 78 and further amended by
Revisor Instructions, Laws of Utah 2022, Chapter 78

65A-16-203, as enacted by Laws of Utah 2022, Chapter 78

65A-16-301, as last amended by Laws of Utah 2023, Chapter 205

72-2-121, as last amended by Laws of Utah 2023, Chapter 529

ENACTS:

63G-6b-101, Utah Code Annotated 1953

63G-6b-102, Utah Code Annotated 1953

63G-6b-201, Utah Code Annotated 1953

63G-6b-202, Utah Code Annotated 1953

63G-6b-301, Utah Code Annotated 1953

~~**63G-6b-401**, Utah Code Annotated 1953~~

~~REPEALS:~~

63J-1-220, as last amended by Laws of Utah 2023, Chapter 16

63N-1a-307, as enacted by Laws of Utah 2022, Chapter 362

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

Section 1. Section **11-41-102** is amended to read:

HB0335S03 compared with HB0335S02

11-41-102. Definitions.

As used in this chapter:

- (1) "Agreement" means an oral or written agreement between a public entity and a person.
- (2) "Business entity" means a sole proprietorship, partnership, limited partnership, limited liability company, corporation, or other entity or association used to carry on a business for profit.
- (3) "Determination of violation" means a determination by the Governor's Office of Economic Opportunity of substantial likelihood that a retail facility incentive payment has been made in violation of Section 11-41-103, in accordance with Section 11-41-104.
- (4) "Environmental mitigation" means an action or activity intended to remedy known negative impacts to the environment.
- (5) "Executive director" means the executive director of the Governor's Office of Economic Opportunity.
- (6) "General plan" means the same as that term is defined in Section 23A-6-101.
- (7) "Mixed-use development" means development with mixed land uses, including housing.
- (8) "Moderate income housing plan" means the moderate income housing plan element of a general plan.
- (9) "Office" means the Governor's Office of Economic Opportunity.
- (10) "Political subdivision" means any county, city, town, metro township, school district, special district, special service district, community reinvestment agency, or entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act.
- (11) "Public entity" means:
 - (a) a political subdivision;
 - ~~[(b) a state agency as defined in Section 63J-1-220;]~~
 - (b) a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the executive branch of the state;
 - (c) a higher education institution as defined in Section 53B-1-201;

HB0335S03 compared with HB0335S02

(d) the Military Installation Development Authority created in Section 63H-1-201;

(e) the Utah Inland Port Authority created in Section 11-58-201; or

(f) the Point of the Mountain State Land Authority created in Section 11-59-201.

(12) "Public funds" means any money received by a public entity that is derived from:

(a) a sales and use tax authorized under Title 59, Chapter 12, Sales and Use Tax Act;

or

(b) a property tax levy.

(13) "Public infrastructure" means:

(a) a public facility as defined in Section 11-36a-102; or

(b) public infrastructure included as part of an infrastructure master plan related to a general plan.

(14) "Retail facility" means any facility operated by a business entity for the primary purpose of making retail transactions.

(15) (a) "Retail facility incentive payment" means a payment of public funds:

(i) to a person by a public entity;

(ii) for the development, construction, renovation, or operation of a retail facility

within an area of the state; and

(iii) in the form of:

(A) a payment;

(B) a rebate;

(C) a refund;

(D) a subsidy; or

(E) any other similar incentive, award, or offset.

(b) "Retail facility incentive payment" does not include a payment of public funds for:

(i) the development, construction, renovation, or operation of:

(A) public infrastructure; or

(B) a structured parking facility;

(ii) the demolition of an existing facility;

(iii) assistance under a state or local:

(A) main street program; or

(B) historic preservation program;

HB0335S03 compared with HB0335S02

(iv) environmental mitigation or sanitation, if determined by a state or federal agency under applicable state or federal law;

(v) assistance under a water conservation program or energy efficiency program, if any business entity located within the public entity's boundaries or subject to the public entity's jurisdiction is eligible to participate in the program;

(vi) emergency aid or assistance, if any business entity located within the public entity's boundaries or subject to the public entity's jurisdiction is eligible to receive the emergency aid or assistance; or

(vii) assistance under a public safety or security program, if any business entity located within the public entity's boundaries or subject to the public entity's jurisdiction is eligible to participate in the program.

(16) "Retail transaction" means any transaction subject to a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act.

(17) (a) "Small business" means a business entity that:

- (i) has fewer than 30 full-time equivalent employees; and
- (ii) maintains the business entity's principal office in the state.

(b) "Small business" does not include:

- (i) a franchisee, as defined in 16 C.F.R. Sec. 436.1;
- (ii) a dealer, as defined in Section 41-1a-102; or
- (iii) a subsidiary or affiliate of another business entity that is not a small business.

Section 2. Section **63G-6b-101** is enacted to read:

CHAPTER 6b. STATE GRANTS

Part 1. General Provisions

63G-6b-101. Definitions.

As use in this chapter:

(1) "Administering agency" means a state agency that administers a competitive grant.

(2) "Competitive grant" means a grant that is not a direct award grant.

(3) "Direct award grant" means a grant that is funded by money that the Legislature intends the state agency to pass through to one or more recipients without a competitive process.

(4) (a) "Grant" means a state agency's expenditure of state money, or agreement to

HB0335S03 compared with HB0335S02

expend state money, that is:

- (i) authorized by law;
- (ii) made for a particular purpose; and
- (iii) made without acquiring, or the promise of acquiring, a procurement item in

exchange for the expenditure.

(b) "Grant" does not include:

- (i) a tax credit;
- (ii) an expenditure of federal money;
- (iii) public assistance, as defined in Section 26B-9-101;
- (iv) a loan;
- (v) a rebate;
- (vi) an incentive; or
- (vii) a claim payment.

(5) "Grant appropriation" means an appropriation the Legislature makes to an administering agency to be used for one or more competitive grants.

(6) "Grant period" means the time frame during which a grant recipient receives funds from a single competitive grant.

(7) "Multi-year grant" means a competitive grant for which the grant period exceeds one year.

(8) "Nonprofit entity" means an entity that:

- (a) operates in the state;
- (b) is not a government entity; and
- (c) is exempt from federal income taxation under Section 501(c)(3), Internal Revenue

Code.

(9) "Procurement item" means the same as that term is defined in Section 63G-6a-103.

(10) (a) "State agency" means a department, division, or other agency or instrumentality of the state.

(b) "State agency" does not include the legislative department.

(11) "State money" means money that is derived from state fees or state tax revenue.

Section 3. Section **63G-6b-102** is enacted to read:

63G-6b-102. Applicability.

HB0335S03 compared with HB0335S02

This chapter does not apply to a grant that is authorized in statute, unless the statute provides that the grant is subject to this chapter.

Section 4. Section **63G-6b-201** is enacted to read:

Part 2. ~~{Provisions Applicable to All}~~ Competitive Grants

63G-6b-201. Eligibility.

Except as otherwise provided in the grant appropriation, a person may receive a grant only if the person is a nonprofit entity or a political subdivision.

Section 5. Section **63G-6b-202** is enacted to read:

63G-6b-202. Requirements for all grants.

(1) (a) To award a competitive grant, an administering agency shall:

(i) establish a competitive application and selection process; and

(ii) award each competitive grant in accordance with the established process.

(b) As part of the competitive application process, the administering agency shall require that each applicant disclose all other state funding the applicant receives.

(c) After an administering agency completes a competitive application process for a competitive grant but before the administering agency awards the grant, the administering agency shall report each grant recipient to the legislative fiscal analyst and the Governor's Office of Planning and Budget.

~~{1}~~2) (a) An administering agency shall disburse grant funds in accordance with this Subsection ~~{1}~~2).

(b) Before an administering agency disburses a competitive grant's grant funds, the administering agency shall ensure that the grant recipient provides a detailed budget demonstrating how the grant recipient will use the grant funds.

(c) An administering agency shall establish a distribution schedule that ensures accountability and responsible oversight of the use of the grant funds.

(d) An administering agency may not:

(i) disburse all grant funds in a single payment, unless the administering agency makes the single payment after the grant recipient satisfies the grant recipient's performance obligations under the agreement described in Subsection ~~{4}~~5); or

(ii) make a grant recipient's final disbursement before the grant recipient delivers the report described in Subsection ~~{3}~~4).

HB0335S03 compared with HB0335S02

(~~2~~3) For a multi-year grant:

(a) the grant period may not exceed five years; and

(b) in the final quarter of each year of the grant period, excluding the final year, the grant recipient shall deliver to the administering agency a report that details the grant recipient's progress towards fulfilling the grant's purpose, including the annual deliverables and performance metrics described in the agreement made in accordance with Subsection (~~4~~5).

(~~3~~4) An administering agency may not make the final grant funds disbursement until:

(a) the grant recipient delivers to the administering agency a final report that details the extent to which the grant recipient fulfilled the grant's purpose, including the deliverables and performance metrics described in the agreement made in accordance with Subsection (~~4~~5); and

(b) the administering agency determines that the grant recipient satisfactorily produced each deliverable provided in the agreement described in Subsection (~~4~~5).

(~~4~~5) Except as otherwise provided in the grant appropriation and consistent with the other provisions of this section, an administering agency may not disburse grant funds to a grant recipient before the administering agency and the grant recipient execute an agreement that contains:

(a) the disbursement schedule for the grant funds;

(b) the deliverables, reporting, and performance metrics the grant recipient will produce and use to demonstrate that the grant recipient used the grant funds to fulfill the grant's purpose;

(c) if the grant is a multi-year grant, annual deliverables and performance metrics the grant recipient will produce and use to demonstrate sufficient progress towards fulfilling the grant's purpose;

(d) a provision informing the grant recipient that disbursement of grant funds is subject to legislative appropriation; and

(e) the grant recipient's consent to follow-up audit and clawback of the grant funds if an audit shows that the grant funds were inappropriately used.

(~~5~~6) In accordance with Utah Constitution, Article VI, Section 33, the legislative auditor general may audit the use of any grant funds.

HB0335S03 compared with HB0335S02

Section 6. Section 63G-6b-301 is enacted to read:

Part 3. Direct Award Grants

63G-6b-301. Direct award ~~{grant requirements.~~

~~———— (1) (a) A direct award grant is valid only if the direct award grant's grant appropriation identifies the recipient or class of recipients in the grant appropriation's intent language.~~

~~———— (b) For a grant appropriation that is an ongoing appropriation to fund a multi-year grant, the requirement to identify the recipient or class of recipients applies each fiscal year.~~

~~———— (2) If the intent language for a direct award grant's grant appropriation provides a disbursement schedule that is inconsistent with the schedule described in Section 63G-6b-202, for the fiscal year in which the grant appropriation is made, the schedule in the intent language controls.~~

~~———— Section 7. Section 63G-6b-401 is enacted to read:~~

~~Part 4. Competitive Grants~~

~~———— 63G-6b-401. Competitive grant requirements.~~

~~———— (1) (a) For a competitive grant, the administering agency shall:~~

~~———— (i) establish a competitive application and selection process; and~~

~~———— (ii) award each competitive grant in accordance with the established process.~~

~~———— (b) As part of the competitive application process, the administering agency shall require that each applicant disclose all other state funding the applicant receives.~~

~~———— (2) Except as otherwise provided in the grant appropriation's intent language, grants prohibited.~~

~~(1) Except as provided in Subsection (2), on or after July 1, 2025, the Legislature may not authorize by appropriation, and an administering agency may not award ~~{ a competitive grant to a recipient who has received }~~, a direct award grant ~~{ if:~~~~

~~———— (a) the direct award grant is for substantially the same purpose as the competitive grant; and~~

~~———— (b) the direct award grant's grant period and the competitive grant's grant period overlap.~~

~~———— (3) After an administering agency completes a competitive application process for a~~

HB0335S03 compared with HB0335S02

~~competitive grant but before the administering agency awards the grant, the administering agency shall report each grant recipient to the legislative fiscal analyst and the Governor's Office of Planning and Budget.~~

~~Section 8}.~~

(2) The prohibition described in Subsection (1) does not apply during a state of emergency that is declared by:

(a) the president of the United States;

(b) the governor in an executive order under Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act; or

(c) the chief executive officer of a political subdivision in a proclamation under Title 53, Chapter 2a, Disaster Response and Recovery Act.

Section 7. Section **63J-1-201** is amended to read:

63J-1-201. Governor's proposed budget to Legislature -- Contents -- Preparation -- Appropriations based on current tax laws and not to exceed estimated revenues.

(1) The governor shall deliver, not later than 30 days before the date the Legislature convenes in the annual general session, a confidential draft copy of the governor's proposed budget recommendations to the Office of the Legislative Fiscal Analyst according to the requirements of this section.

(2) (a) When submitting a proposed budget, the governor shall, within the first three days of the annual general session of the Legislature, submit to the presiding officer of each house of the Legislature:

(i) a proposed budget for the ensuing fiscal year;

(ii) a schedule for all of the proposed changes to appropriations in the proposed budget, with each change clearly itemized and classified; and

(iii) as applicable, a document showing proposed changes in estimated revenues that are based on changes in state tax laws or rates.

(b) The proposed budget shall include:

(i) a projection of:

(A) estimated revenues by major tax type;

(B) 15-year trends for each major tax type;

(C) estimated receipts of federal funds;

HB0335S03 compared with HB0335S02

- (D) 15-year trends for federal fund receipts; and
- (E) appropriations for the next fiscal year;
- (ii) the source of changes to all direct, indirect, and in-kind matching funds for all federal grants or assistance programs included in the budget;
- (iii) changes to debt service;
- (iv) a plan of proposed changes to appropriations and estimated revenues for the next fiscal year that is based upon the current fiscal year state tax laws and rates and considers projected changes in federal grants or assistance programs included in the budget;
- (v) an itemized estimate of the proposed changes to appropriations for:
 - (A) the legislative department as certified to the governor by the president of the Senate and the speaker of the House;
 - (B) the executive department;
 - (C) the judicial department as certified to the governor by the state court administrator;
 - (D) changes to salaries payable by the state under the Utah Constitution or under law for lease agreements planned for the next fiscal year; and
 - (E) all other changes to ongoing or one-time appropriations, including dedicated credits, restricted funds, nonlapsing balances, grants, and federal funds;
- (vi) for each line item, the average annual dollar amount of staff funding associated with all positions that were vacant during the last fiscal year;
- (vii) deficits or anticipated deficits;
- (viii) the recommendations for each state agency for new full-time employees for the next fiscal year, which shall also be provided to the director of the Division of Facilities Construction and Management as required by Subsection 63A-5b-501(3);
- ~~[(ix) a written description and itemized report submitted by a state agency to the Governor's Office of Planning and Budget under Section 63J-1-220, including:]~~
- ~~[(A) a written description and an itemized report provided at least annually detailing the expenditure of the state money, or the intended expenditure of any state money that has not been spent; and]~~
- ~~[(B) a final written itemized report when all the state money is spent;]~~
- ~~[(x)]~~ (ix) any explanation that the governor may desire to make as to the important features of the budget and any suggestion as to methods for the reduction of expenditures or

HB0335S03 compared with HB0335S02

increase of the state's revenue; and

~~[(xi)]~~ (x) information detailing certain fee increases as required by Section 63J-1-504.

(3) (a) Except as provided in Subsection (3)(b), for the purpose of preparing and reporting the proposed budget, the governor:

(i) shall require the proper state officials, including all public and higher education officials, all heads of executive and administrative departments and state institutions, bureaus, boards, commissions, and agencies expending or supervising the expenditure of the state money, and all institutions applying for state money and appropriations, to provide itemized estimates of changes in revenues and appropriations;

(ii) may require the persons and entities subject to Subsection (3)(a)(i) to provide other information under these guidelines and at times as the governor may direct, which may include a requirement for program productivity and performance measures, where appropriate, with emphasis on outcome indicators; and

(iii) may require representatives of public and higher education, state departments and institutions, and other institutions or individuals applying for state appropriations to attend budget meetings.

(b) Subsections (3)(a)(ii) and (iii) do not apply to the judicial department or the legislative department.

(4) (a) The Governor's Office of Planning and Budget shall provide to the Office of the Legislative Fiscal Analyst, as soon as practicable, but no later than 30 days before the day on which the Legislature convenes in the annual general session, data, analysis, or requests used in preparing the governor's budget recommendations, notwithstanding the restrictions imposed on such recommendations by available revenue.

(b) The information under Subsection (4)(a) shall include:

(i) actual revenues and expenditures for the fiscal year ending the previous June 30;

(ii) estimated or authorized revenues and expenditures for the current fiscal year;

(iii) requested revenues and expenditures for the next fiscal year;

(iv) detailed explanations of any differences between the amounts appropriated by the Legislature in the current fiscal year and the amounts reported under Subsections (4)(b)(ii) and (iii); and

(v) other budgetary information required by the Legislature in statute.

HB0335S03 compared with HB0335S02

(c) The budget information under Subsection (4)(a) shall cover:

(i) all items of appropriation, funds, and accounts included in appropriations acts for the current and previous fiscal years; and

(ii) any new appropriation, fund, or account items requested for the next fiscal year.

(d) The information provided under Subsection (4)(a) may be provided as a shared record under Section 63G-2-206 as considered necessary by the Governor's Office of Planning and Budget.

(5) (a) In submitting the budget for the Department of Public Safety, the governor shall include a separate recommendation in the governor's budget for maintaining a sufficient number of alcohol-related law enforcement officers to maintain the enforcement ratio equal to or below the number specified in Subsection 32B-1-201(2).

(b) If the governor does not include in the governor's budget an amount sufficient to maintain the number of alcohol-related law enforcement officers described in Subsection (5)(a), the governor shall include a message to the Legislature regarding the governor's reason for not including that amount.

(6) (a) The governor may revise all estimates, except those relating to the legislative department, the judicial department, and those providing for the payment of principal and interest to the state debt and for the salaries and expenditures specified by the Utah Constitution or under the laws of the state.

(b) The estimate for the judicial department, as certified by the state court administrator, shall also be included in the budget without revision, but the governor may make separate recommendations on the estimate.

(7) The total appropriations requested for expenditures authorized by the budget may not exceed the estimated revenues from taxes, fees, and all other sources for the next ensuing fiscal year.

(8) If any item of the budget as enacted is held invalid upon any ground, the invalidity does not affect the budget itself or any other item in the budget.

Section ~~{9}~~8. Section ~~{63N-1a-307}~~65A-16-201 is amended to read:

~~{~~63N-1a-307. Restrictions on direct award grants.

~~—~~[(1) As used in this section:]

~~—~~[(a) "Pass through funding" means the same as that term is defined in Section

HB0335S03 compared with HB0335S02

~~63J-1-220.]~~

~~—— [(b) "Recipient entity" means the same as that term is defined in Section 63J-1-220.]~~

~~—— (1) As used in this section, "direct award grant" means the same as that term is defined in Section 63G-6b-101.~~

~~—— (2) In addition to the requirements of [Section 63J-1-220] Title 63G, Chapter 6b, State Grants, the office may not distribute [pass through funding] grant funds from a direct award grant to a recipient entity unless the office follows the standards or criteria established by the Legislature to distribute the pass through funding, as described in the applicable item of appropriation.~~

~~—— (3) If an item of appropriation to the office for [pass through funding] a direct award grant does not include any standards or criteria for distributing the [pass through funding] grant funds, the funds shall lapse to the source fund at the end of the fiscal year, regardless of whether those funds are designated by law as nonlapsing.~~

~~—— Section 10. Section **65A-16-201** is amended to read:~~

‡ **65A-16-201. Great Salt Lake Watershed Enhancement Program established.**

(1) There is created the "Great Salt Lake Watershed Enhancement Program" to issue grant money to establish a water trust to implement projects, programs, or voluntary arrangements that:

(a) retain or enhance water flows to:

(i) sustain the Great Salt Lake and the Great Salt Lake's wetlands; and

(ii) improve water quality and quantity for the Great Salt Lake within the Great Salt Lake watershed;

(b) conserve and restore upstream habitats that are key to protecting the hydrology and health of the Great Salt Lake and the Great Salt Lake's surrounding ecosystem;

(c) attract or leverage other public or private funding to enhance and preserve the Great Salt Lake watershed;

(d) engage agricultural producers, local landowners, local planning authorities, and others to support the Great Salt Lake;

(e) support or benefit the Great Salt Lake's natural infrastructure;

(f) protect and restore uplands, wetlands, and habitats in the Great Salt Lake watershed that benefit hydrologic or ecosystem functions of the Great Salt Lake;

HB0335S03 compared with HB0335S02

(g) support efforts to integrate water planning and management efforts that benefit the Great Salt Lake watershed;

(h) undertake assessments or studies as necessary, consistent with the goals of this Subsection (1);

(i) support projects or programs to respond to low water levels and rising salinity in the Great Salt Lake;

(j) require the creation and operation of one or more endowments to sustain the water trust and fulfill the purposes of this chapter; or

(k) otherwise fulfill the purposes of this Subsection (1) to enhance, preserve, or protect the Great Salt Lake.

(2) (a) Subject to legislative appropriations, the division shall award a one-time grant to one eligible applicant to establish a water trust authorized under this section.

(b) The amount of the one-time grant under this Subsection (2) shall be equal to the entire appropriation made to the division to implement this chapter.

(c) Notwithstanding the requirements for the division issuing a one-time grant under this section, after the grant is issued, the division may receive additional appropriations to be used for the purposes of this chapter, including providing money to the water trust created under this chapter.

(3) To be considered for the one-time grant under Subsection (2), an eligible applicant shall submit a written application to the division within 60 days of March 21, 2022, that:

(a) demonstrates that the eligible applicant meets the following criteria that are necessary to submit a written application, that the eligible applicant:

(i) has offices and staff located in Utah; and

(ii) individually or collectively possesses:

(A) a history and ability to attract private funding to implement water and land conservation projects;

(B) knowledge and experience with the Great Salt Lake and the Great Salt Lake watershed;

(C) knowledge and experience managing wetlands in the vicinity of the Great Salt Lake;

(D) knowledge and experience in the creation of three or more water trusts or water

HB0335S03 compared with HB0335S02

funds;

(E) knowledge and experience in securing approval from the Division of Water Rights for water right applications that support the beneficial use of water in the Great Salt Lake;

(F) knowledge and experience with Utah water laws; and

(G) participation in the development of studies and reports on the Great Salt Lake and Utah water policy;

(b) how the applicant will accomplish the objectives of Subsection (1);

(c) how the applicant will satisfy Part 3, Water Trust; and

(d) a description of the types of money, in-kind contributions, and other resources the applicant could contribute or attract to support the creation, operation, and administration of a water trust.

(4) The division, in consultation with the council and the director of the Division of Water Quality, shall evaluate and rank the applications received under Subsection (3) according to each eligible applicant's experience and demonstrated ability to:

(a) attract and secure public and private funding to implement water and land conservation projects;

(b) address water quality and hydrology issues of the Great Salt Lake and within the Great Salt Lake watershed;

(c) create and operate water trusts;

(d) secure approval from the Division of Water Rights for water right applications that support beneficial use of water in the Great Salt Lake;

(e) understand, use, and work to improve Utah water laws in a manner that benefits the Great Salt Lake watershed while protecting other beneficial uses of water; and

(f) participate in collaborative efforts to develop strategies and recommendations to ensure adequate water for the Great Salt Lake and the Great Salt Lake watershed.

(5) (a) Within 90 days of March 21, 2022, the division shall select the highest ranking eligible applicant as the grantee.

(b) The division shall distribute the appropriated money to the grantee as soon as reasonably practicable following the execution of an agreement or agreements that satisfy the requirements of [~~Subsections~~] Subsection 51-2a-201.5(4) and [~~63J-1-220(2)~~] Title 63G, Chapter 6b, State Grants.

HB0335S03 compared with HB0335S02

(c) The division shall issue the grant within the time period required under this Subsection (5) notwithstanding whether the division has adopted rules to administer the program under Section 65A-16-102.

(6) If the division does not receive an application from an eligible applicant that satisfies each of the evaluation criteria of Subsection (4), the division shall issue a request for proposals under a competitive award process and shall select the most qualified applicant to receive the grant.

Section ~~{11}~~9. Section **65A-16-203** is amended to read:

65A-16-203. Grantee requirements.

A grantee that receives grant money under this chapter shall:

(1) comply with Section 51-2a-201.5, [~~Subsection 63J-1-220(2)~~] Title 63G, Chapter 6b, State Grants, and other applicable laws, regulations, ordinances, or rules; and

(2) use grant money to carry out the objectives of Subsection 65A-16-201(1) and to operate the water trust in a manner required by Section 65A-16-301, provided that this chapter may not be construed as limiting the grantee's ability to obtain funding from other public and private sources to assist in the establishment, operation, and administration of the water trust.

Section ~~{12}~~10. Section **65A-16-301** is amended to read:

65A-16-301. Water trust -- Powers and duties -- Advisory councils.

(1) The grantee under this chapter shall establish a water trust that:

(a) is organized:

(i) as a private nonprofit organization; or

(ii) as an agreement between two or more conservation organizations; and

(b) complies with this section.

(2) A water trust created under this section shall:

(a) use a fiduciary to hold and administer grant money appropriated under this chapter;

(b) subject to Subsection (6):

(i) register with the lieutenant governor as a limited purpose entity pursuant to Section 51-2a-201.5;

(ii) file with the state auditor on or before June 30 of each year the accounting report that:

(A) satisfies Subsection 51-2a-201.5(2);

HB0335S03 compared with HB0335S02

(B) includes an itemized accounting of the in-kind contributions and other monetary contributions described in Subsection (4); and

(C) includes an itemized accounting of the costs incurred under Subsection (3)(a);

(iii) provide a copy of the accounting report described in Subsection (2)(b)(ii) to:

(A) the division;

(B) the commissioner;

(C) the Division of Water Quality;

(D) the council; and

(E) the Natural Resources, Agriculture, and Environment Quality Appropriations Subcommittee;

(iv) file with the division on or before January 31 of each year a report that satisfies the requirements of [~~Subsections~~] Subsection 51-2a-201.5(4) [~~and 63J-1-220(2)~~]; and

(v) provide a copy of the report described in Subsection (2)(b)(iv) to:

(A) the Division of Water Quality;

(B) the council; and

(C) the Natural Resources, Agriculture, and Environment Quality Appropriations Subcommittee; and

(c) comply with applicable laws, regulations, ordinances, and rules.

(3) A water trust established by a grantee under this section:

(a) may use grant money for costs to establish, operate, or administer the water trust, including the hiring of staff or contractors;

(b) shall use no less than 25% of the grant money to protect and restore wetlands and habitats in the Great Salt Lake's surrounding ecosystem to benefit the hydrology of the Great Salt Lake; and

(c) may invest grant money the water trust receives under this chapter or any private money the water trust may receive, except that the water trust shall:

(i) invest and account for grant money and private money separately; and

(ii) use the earnings received from the investment of grant money to carry out the purposes described in Subsection 65A-16-201(1).

(4) The water trust shall provide a significant match of in-kind contributions or other monetary contributions to support the water trust's operations and for the purposes described in

HB0335S03 compared with HB0335S02

Subsection 65A-16-201(1).

(5) (a) A water trust established under this section shall create and consult with one or more advisory councils on matters related to the mission and objectives of the water trust.

(b) At least one of the advisory councils shall consist of nine members with a representative from the following:

- (i) agriculture;
- (ii) a private land owner adjacent to the Great Salt Lake;
- (iii) a conservation organization dedicated to the preservation of migratory waterfowl;
- (iv) a conservation organization dedicated to the protection of non-game avian species;
- (v) another conservation organization working on Great Salt Lake issues;
- (vi) aquaculture;
- (vii) mineral extraction;
- (viii) a water conservancy district; and
- (ix) wastewater treatment facilities.

(6) The duties of the water trust under Subsection (2)(b) apply to the water trust notwithstanding whether the holdings, revenues, or expenditures of the water trust include grant money or other money from the state.

Section ~~13~~11. Section **72-2-121** is amended to read:

72-2-121. County of the First Class Highway Projects Fund.

(1) There is created a special revenue fund within the Transportation Fund known as the "County of the First Class Highway Projects Fund."

(2) The fund consists of money generated from the following revenue sources:

(a) any voluntary contributions received for new construction, major renovations, and improvements to highways within a county of the first class;

(b) the portion of the sales and use tax described in Subsection 59-12-2214(3)(b) deposited into or transferred to the fund;

(c) the portion of the sales and use tax described in Section 59-12-2217 deposited into or transferred to the fund;

(d) a portion of the local option highway construction and transportation corridor preservation fee imposed in a county of the first class under Section 41-1a-1222 deposited into or transferred to the fund; and

HB0335S03 compared with HB0335S02

(e) the portion of the sales and use tax transferred into the fund as described in Subsections 59-12-2220(4)(a) and 59-12-2220(11)(b).

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) Subject to Subsection (9), the executive director shall use the fund money only:

(a) to pay debt service and bond issuance costs for bonds issued under Sections 63B-16-102, 63B-18-402, and 63B-27-102;

(b) for right-of-way acquisition, new construction, major renovations, and improvements to highways within a county of the first class and to pay any debt service and bond issuance costs related to those projects, including improvements to a highway located within a municipality in a county of the first class where the municipality is located within the boundaries of more than a single county;

(c) for the construction, acquisition, use, maintenance, or operation of:

(i) an active transportation facility for nonmotorized vehicles;

(ii) multimodal transportation that connects an origin with a destination; or

(iii) a facility that may include a:

(A) pedestrian or nonmotorized vehicle trail;

(B) nonmotorized vehicle storage facility;

(C) pedestrian or vehicle bridge; or

(D) vehicle parking lot or parking structure;

(d) to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount required in Subsection 72-2-121.3(4)(c) minus the amounts transferred in accordance with Subsection 72-2-124(4)(a)(iv);

(e) for a fiscal year beginning on or after July 1, 2013, to pay debt service and bond issuance costs for \$30,000,000 of the bonds issued under Section 63B-18-401 for the projects described in Subsection 63B-18-401(4)(a);

(f) for a fiscal year beginning on or after July 1, 2013, and after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund, to transfer an amount equal to 50% of the revenue generated by the local option highway construction and transportation corridor preservation fee imposed under Section 41-1a-1222 in a county of the first class:

HB0335S03 compared with HB0335S02

(i) to the legislative body of a county of the first class; and

(ii) to be used by a county of the first class for:

(A) highway construction, reconstruction, or maintenance projects; or

(B) the enforcement of state motor vehicle and traffic laws;

(g) for a fiscal year beginning on or after July 1, 2015, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(e) has been made, to annually transfer an amount of the sales and use tax revenue imposed in a county of the first class and deposited into the fund in accordance with Subsection 59-12-2214(3)(b) equal to an amount needed to cover the debt to:

(i) the appropriate debt service or sinking fund for the repayment of bonds issued under Section 63B-27-102; and

(ii) the appropriate debt service or sinking fund for the repayment of bonds issued under Sections 63B-31-102 and 63B-31-103;

(h) after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4)(d), the payment under Subsection (4)(e), and the transfer under Subsection (4)(g)(i) has been made, to annually transfer \$2,000,000 to a public transit district in a county of the first class to fund a system for public transit;

(i) for a fiscal year beginning on or after July 1, 2018, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4)(d), the payment under Subsection (4)(e), and the transfer under Subsection (4)(g)(i) has been made, to annually transfer 20% of the amount deposited into the fund under Subsection (2)(b):

(i) to the legislative body of a county of the first class; and

(ii) to fund parking facilities in a county of the first class that facilitate significant economic development and recreation and tourism within the state;

(j) for the 2018-19 fiscal year only, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4)(d), the payment under Subsection (4)(e), and the transfers under Subsections (4)(g), (h), and (i) have been made, to transfer \$12,000,000 to the department to distribute for the following projects:

HB0335S03 compared with HB0335S02

- (i) \$2,000,000 to West Valley City for highway improvement to 4100 South;
 - (ii) \$1,000,000 to Herriman for highway improvements to Herriman Boulevard from 6800 West to 7300 West;
 - (iii) \$1,100,000 to South Jordan for highway improvements to Grandville Avenue;
 - (iv) \$1,800,000 to Riverton for highway improvements to Old Liberty Way from 13400 South to 13200 South;
 - (v) \$1,000,000 to Murray City for highway improvements to 5600 South from State Street to Van Winkle;
 - (vi) \$1,000,000 to Draper for highway improvements to Lone Peak Parkway from 11400 South to 12300 South;
 - (vii) \$1,000,000 to Sandy City for right-of-way acquisition for Monroe Street;
 - (viii) \$900,000 to South Jordan City for right-of-way acquisition and improvements to 10200 South from 2700 West to 3200 West;
 - (ix) \$1,000,000 to West Jordan for highway improvements to 8600 South near Mountain View Corridor;
 - (x) \$700,000 to South Jordan right-of-way improvements to 10550 South; and
 - (xi) \$500,000 to Salt Lake County for highway improvements to 2650 South from 7200 West to 8000 West; and
- (k) subject to Subsection (5), for a fiscal year beginning on or after July 1, 2021, and for 15 years thereafter, to annually transfer the following amounts to the following cities, metro townships, and the county of the first class for priority projects to mitigate congestion and improve transportation safety:
- (i) \$2,000,000 to Sandy;
 - (ii) \$2,000,000 to Taylorsville;
 - (iii) \$1,100,000 to Salt Lake City;
 - (iv) \$1,100,000 to West Jordan;
 - (v) \$1,100,000 to West Valley City;
 - (vi) \$800,000 to Herriman;
 - (vii) \$700,000 to Draper;
 - (viii) \$700,000 to Riverton;
 - (ix) \$700,000 to South Jordan;

HB0335S03 compared with HB0335S02

- (x) \$500,000 to Bluffdale;
- (xi) \$500,000 to Midvale;
- (xii) \$500,000 to Millcreek;
- (xiii) \$500,000 to Murray;
- (xiv) \$400,000 to Cottonwood Heights; and
- (xv) \$300,000 to Holladay.

(5) (a) If revenue in the fund is insufficient to satisfy all of the transfers described in Subsection (4)(k), the executive director shall proportionately reduce the amounts transferred as described in Subsection (4)(k).

~~[(b) A local government entity, as that term is defined in Section 63J-1-220, is exempt from entering into an agreement as described in Section 63J-1-220 pertaining to the receipt or expenditure of any funding described in Subsection (4)(k).]~~

~~[(c)]~~ (b) A local government may not use revenue described in Subsection (4)(k) to supplant existing class B or class C road funds that a local government has budgeted for transportation projects.

~~[(d)]~~ (c) (i) A municipality or county that received a transfer of funds described in Subsection (4)(j) shall submit to the department a statement of cash flow and progress pertaining to the municipality's or county's respective project described in Subsection (4)(j).

(ii) After the department is satisfied that the municipality or county described in Subsection (4)(j) has made substantial progress and the expenditure of funds is programmed and imminent, the department may transfer to the same municipality or county the respective amounts described in Subsection (4)(k).

(6) The revenues described in Subsections (2)(b), (c), and (d) that are deposited into the fund and bond proceeds from bonds issued under Sections 63B-16-102, 63B-18-402, and 63B-27-102 are considered a local matching contribution for the purposes described under Section 72-2-123.

(7) The additional administrative costs of the department to administer this fund shall be paid from money in the fund.

(8) Subject to Subsection (9), and notwithstanding any statutory or other restrictions on the use or expenditure of the revenue sources deposited into this fund, the Department of Transportation may use the money in this fund for any of the purposes detailed in Subsection

HB0335S03 compared with HB0335S02

(4).

(9) Any revenue deposited into the fund as described in Subsection (2)(e) shall be used to provide funding or loans for public transit projects, operations, and supporting infrastructure in the county of the first class.

Section ~~{14}~~12. **Repealer.**

This bill repeals:

Section **63J-1-220, Reporting related to pass through money distributed by state agencies.**

Section 63N-1a-307, Restrictions on pass through funding.

Section ~~{15}~~13. **Effective date.**

This bill takes effect on July 1, 2024.