FINANCE-APPROPRIATIONS WORKING GROUP

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Subject: How Idaho and Other States Address Non-Cognizable (Unanticipated) Federal Funding

This report provides information on how Idaho and other states address unanticipated federal funding. In Idaho this is referred to as non-cognizable funding and is authorized in Section 67-3516(2), Idaho Code. This information was compiled from responses provided to the National Conference of State Legislatures by the National Association of Legislative Fiscal Officers.

Table 1 shows that there are several degrees of legislative control over unanticipated federal funding. These range from no authority in nine states; conditional authority in 13 states, and binding authority that requires legislative approval in 12 states.

Table 2 shows how Idaho and other states address seven common components of the non-cognizable funding process. The information in this table is not intended to be a comprehensive review of all states, but rather, to provide examples that may assist members of the working group when considering alternative approaches to Idaho's process.

Table 1. Interim Control Over Unanticipated Federal Funding

General Degree of Legislative Authority	# of States
None: The executive has complete discretion over unanticipated federal funds received between legislative sessions. (AL, AZ, GA, IN, ME, MS, MT, VA, WA)	9
Advisory: A legislative board may provide advice during the interim, but lawmakers have no control over unanticipated federal funds. (AK, AR, FL, KY, MD, MA, MN, NC, TN, WI)	10
Conditional: Lawmakers defer to the executive for some spending decisions between legislative sessions. Practice may vary depending on the source, purpose or type of unanticipated federal funds received. **Idaho is in this category.** (CA, CO, CT, HI, ID, IL, IA, NH, NJ, NM, UT, WV, WY)	13
Joint: Executive and legislative branch sit together on a board and during the interim share the decision on spending unanticipated federal funds. (DE, KS, ND, OH, OK, RI)	6
Binding: The executive branch may receive but cannot spend unanticipated federal funds without prior authorization or subsequent legislative approval. (LA, MI, MO, NE, NV, NY, OR, PA, SC, SD, TX, VT)	12
Total	**50**

Table 2. Details on Idaho and Other States' Non-Cognizable Processes

Component	**Idaho**	**Other States**
1. Approving Entity / Membership	DFM and Board of Examiners (Governor, Attorney General, Secretary of State)	**Alaska's** Legislative Budget and Audit Committee can provide recommendations. **Ohio's** Controlling Board includes seven members (1 from Ex. Branch, 6 from Legislature); **Delaware's** State Clearinghouse Committee includes 10 members (6 legislators, Controller, Director of OMB, Sec. Finance, Sec. State). **Kansas** uses a State Finance Council (Gov., Speaker, Pro-Tem, +4 legislators). **North Dakota** has an Emergency Commission (Gov., Sec. of State, senate majority leaders, and chairs of House and Senate appropriation committees).
2. Powers	Increase Agency Spending Authority (but cannot appropriate)	**Louisiana** allows its Joint Budget Committee to provide an interim appropriation when not in full session but requires Governor approval. **Ohio's** Board can transfer money between funds within an agency and between agencies under certain circumstances. **Nebraska and New Jersey** use appropriation bill language to allow specific agencies to exceed their expenditure limits. **Tennessee** allows the legislature to review and hold hearings on "expansion requests" but it cannot deny funding. **Iowa** doesn't require executive branch to receive legislative approval for new federal funds.
3. Timeline for Approval	No timeline or deadline	**Florida's** Governor submits a budget amendment and legislative fiscal committees have 14 days to respond if they disapprove of spending plan; **Maryland's** legislative budget committee has up to 45 days to review requests greater than $100,000. **Wyoming** has a 10-day notice period for the legislature to review and accept federal funds in excess of $1 million.
4. Timeline of Expenditure	Interpreted to mean current FY	**Ohio** can cross fiscal years, but it uses a biennial budget cycle. **North Carolina** allows funding to be used for personnel, but on a time-limited basis.
5. Dollar Threshold or Limits on Use	None in statute, but DFM can make determinations on state commitments	**North Carolina** requires legislative consultation for grants greater than $2.5 million. **North Dakota** requires legislative approval for funds in excess of $50,000. **New Jersey** may build into an appropriation the ability to spend up to 125% of authorized levels. **Tennessee** and **Wyoming** do not have thresholds. **Utah**, **Illinois, and Massachusetts** cannot approve funding that commits the state to matching funds. **New Hampshire** does not allow unanticipated federal funds to be used for personnel costs or consultants.
6. Types of New Funding	Non-state funds	**Arizona** limits approval to only Medicaid, Child Support, and Child Welfare funding. **Hawaii's** Governor can approve receipt of Dept. of Defense funding.
7. Notification by Executive Branch to the Legislature	Included in the SCO system and budget documents	**California** requires notification to the Joint Legislative Budget Committee. **Missouri's** agencies must notify legislative fiscal staff when federal receipts exceed budget estimates. **Wyoming** requires the executive branch to report quarterly to the legislature the expenditure of unanticipated federal funds.