FINANCE-APPROPRIATIONS WORKING GROUP

From: Paul Headlee, Manager, Budget & Policy Analysis, Idaho Legislative Services Office Date: Prepared October 5, 2020 for the October 14, 2020 Working Group Meeting 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	9
legislative sessions. (AL, AZ, GA, IN, ME, MS, MT, VA, WA)	
Advisory: A legislative board may provide advice during the interim, but lawmakers have no control	10
over unanticipated federal funds. (AK, AR, FL, KY, MD, MA, MN, NC, TN, WI)	
Conditional: Lawmakers defer to the executive for some spending decisions between legislative	13
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)	
Joint: Executive and legislative branch sit together on a board and during the interim share the	6
decision on spending unanticipated federal funds. (DE, KS, ND, OH, OK, RI)	
Binding: The executive branch may receive but cannot spend unanticipated federal funds without prior	12
authorization or subsequent legislative approval. (LA, MI, MO, NE, NV, NY, OR, PA, SC, SD, TX, VT)	
Total	50

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

DFM and Board of Examiners (Governor, Attorney (Governor, Attorney (General, Secretary of State) Legislature; Delaware's State Clearinghouse Committee includes 10 members (6 (Egislators, Controlling Board includes seven members (2 (From Ex. Branch, 6 from Legislature); Delaware's State Clearinghouse Committee includes 10 members (6 (Egislators, 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).	Component	Idaho	Other States	
Membership Attorney Attorney 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., 44 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. 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. 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	1. Approving	DFM and Board	Alaska's Legislative Budget and Audit Committee can provide recommendations.	
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