

## Part 2 State Infrastructure Bank Fund

### 72-2-201 Definitions.

As used in this part:

- (1) "Fund" means the State Infrastructure Bank Fund created under Section 72-2-202.
- (2) "Infrastructure assistance" means any use of fund money, except an infrastructure loan, to provide financial assistance for transportation projects or publicly owned infrastructure projects, including:
  - (a) capital reserves and other security for bond or debt instrument financing; or
  - (b) any letters of credit, lines of credit, bond insurance, or loan guarantees obtained by a public entity to finance transportation projects.
- (3) "Infrastructure loan" means a loan of fund money to finance a transportation project or publicly owned infrastructure project.
- (4) "Public entity" means a state agency, county, municipality, special district, special service district, an intergovernmental entity organized under state law, or the military installation development authority created in Section 63H-1-201.
- (5) "Publicly owned infrastructure project" means a project to improve sewer or water infrastructure that is owned by a public entity.
- (6) "Transportation project":
  - (a) means a project:
    - (i) to improve a state or local highway;
    - (ii) to improve a public transportation facility or nonmotorized transportation facility;
    - (iii) to construct or improve parking facilities;
    - (iv) that is subject to a transportation reinvestment zone agreement pursuant to Section 11-13-227 if the state is party to the agreement; or
    - (v) that is part of a housing and transit reinvestment zone created pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act;
  - (b) includes the costs of acquisition, construction, reconstruction, rehabilitation, equipping, and fixturing; and
  - (c) may only include a project if the project is part of:
    - (i) the statewide long range plan;
    - (ii) a regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area; or
    - (iii) a local government general plan or economic development initiative.

Amended by Chapter 16, 2023 General Session

### 72-2-202 State Infrastructure Bank Fund -- Creation -- Use of money.

- (1) There is created a revolving loan fund entitled the State Infrastructure Bank Fund.
- (2)
  - (a) The fund consists of money generated from the following revenue sources:
    - (i) appropriations made to the fund by the Legislature;
    - (ii) federal money and grants that are deposited into the fund;
    - (iii) money transferred to the fund by the commission from other money available to the department;
    - (iv) state grants that are deposited into the fund;

- (v) contributions or grants from any other private or public sources for deposit into the fund; and
  - (vi) subject to Subsection (2)(b), all money collected from repayments of fund money used for infrastructure loans or infrastructure assistance.
- (b) When a loan from the fund is repaid, the department may request and the Legislature may transfer from the fund to the source from which the money originated an amount equal to the repaid loan.
- (3)
- (a) The fund shall earn interest.
  - (b) All interest earned on fund money shall be deposited into the fund.
- (4) Money in the fund shall be used by the department, as prioritized by the commission, only to:
- (a) provide infrastructure loans or infrastructure assistance; and
  - (b) pay the department for the costs of administering the fund, providing infrastructure loans or infrastructure assistance, monitoring transportation projects and publicly owned infrastructure projects, and obtaining repayments of infrastructure loans or infrastructure assistance.
- (5)
- (a) The department may establish separate accounts in the fund for infrastructure loans, infrastructure assistance, administrative and operating expenses, or any other purpose to implement this part.
  - (b) The department shall establish a separate account in the fund for infrastructure loans for publicly owned infrastructure projects in greenfield areas that are located no less than one mile from an existing municipal or county:
    - (i) water supply;
    - (ii) water distribution facility; or
    - (iii) wastewater facility.
  - (c) Prioritization of infrastructure loans described in Subsection (5)(b) shall follow the same process as described in Section 72-2-203.
  - (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules governing how the fund and its accounts may be held by an escrow agent.
- (6) Fund money shall be invested by the state treasurer as provided in Title 51, Chapter 7, State Money Management Act, and the earnings from the investments shall be credited to the fund.
- (7) Before July 1, 2022, the department shall transfer the loan described in Subsection 63B-27-101(3)(a)(i) from the State Infrastructure Bank Fund to the military development infrastructure revolving loan fund created in Section 63A-3-402.
- (8) Before July 1, 2023, the department shall transfer the funds described in Subsection 63B-27-101(3)(a)(ii) from the State Infrastructure Bank Fund to the inland port infrastructure revolving loan fund created in Section 63A-3-402.

Amended by Chapter 22, 2023 General Session

Amended by Chapter 259, 2023 General Session

**72-2-203 Loans and assistance -- Authority -- Rulemaking.**

- (1) Money in the fund may be used by the department, as prioritized by the commission or as directed by the Legislature, to make infrastructure loans or to provide infrastructure assistance to any public entity for any purpose consistent with any applicable constitutional limitation.
- (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules providing procedures and standards for making infrastructure loans and providing infrastructure assistance and a process for prioritization of requests for loans and assistance.

- (3) The prioritization process, procedures, and standards for making an infrastructure loan or providing infrastructure assistance may include consideration of the following:
  - (a) availability of money in the fund;
  - (b) credit worthiness of the project;
  - (c) demonstration that the project will encourage, enhance, or create economic benefits to the state or political subdivision;
  - (d) likelihood that assistance would enable the project to proceed at an earlier date than would otherwise be possible;
  - (e) the extent to which assistance would foster innovative public-private partnerships and attract private debt or equity investment;
  - (f) demonstration that the project provides a benefit to the state highway system, including safety or mobility improvements;
  - (g) the amount of proposed assistance as a percentage of the overall project costs with emphasis on local and private participation;
  - (h) demonstration that the project provides intermodal connectivity with public transportation, pedestrian, or nonmotorized transportation facilities; and
  - (i) other provisions the commission considers appropriate.

Amended by Chapter 366, 2020 General Session

**72-2-204 Loan program procedures -- Repayment.**

- (1) A public entity may obtain an infrastructure loan from the department, upon approval by the commission, by entering into a loan contract with the department secured by legally issued bonds, notes, or other evidence of indebtedness validly issued under state law, including pledging all or any portion of a revenue source controlled by the public entity to the repayment of the loan.
- (2) A loan or assistance from the fund shall bear interest at a rate not to exceed .5% above bond market interest rates available to the state.
- (3) A loan shall be repaid no later than 15 years from the date the department issues the loan to the borrower, with repayment commencing no later than:
  - (a) when the project is completed; or
  - (b) in the case of a highway project, when the facility has opened to traffic.
- (4) The public entity shall repay the infrastructure loan in accordance with the loan contract from any of the following sources:
  - (a) transportation project or publicly owned infrastructure project revenues, including special assessment revenues;
  - (b) general funds of the public entity;
  - (c) money withheld under Subsection (7); or
  - (d) any other legally available revenues.
- (5) An infrastructure loan contract with a public entity may provide that a portion of the proceeds of the loan may be applied to fund a reserve fund to secure the repayment of the loan.
- (6) Before obtaining an infrastructure loan, a county or municipality shall:
  - (a) publish its intention to obtain an infrastructure loan at least once in accordance with the publication of notice requirements under Section 11-14-316; and
  - (b) adopt an ordinance or resolution authorizing the infrastructure loan.
- (7)

- (a) If a public entity fails to comply with the terms of its infrastructure loan contract, the department may seek any legal or equitable remedy to obtain compliance or payment of damages.
  - (b) If a public entity fails to make infrastructure loan payments when due, the state shall, at the request of the department, withhold an amount of money due to the public entity and deposit the withheld money in the fund to pay the amounts due under the contract.
  - (c) The department may elect when to request the withholding of money under this Subsection (7).
- (8) All loan contracts, bonds, notes, or other evidence of indebtedness securing the loan contracts shall be held, collected, and accounted for in accordance with Section 63B-1b-202.

Amended by Chapter 121, 2021 General Session

**72-2-205 Loan contracts of state agencies.**

- (1)
- (a) Notwithstanding Sections 53B-21-113 and 63A-1-112, a state agency may obtain an infrastructure loan.
  - (b) A state agency may contract to repay an infrastructure loan from the money which is appropriated to the agency and may pledge all or any portion of the money to repay the loan.
  - (c) A state agency's infrastructure loan may not constitute a debt of the state or lending the credit of the state within the meaning of any constitutional or statutory limitation.
- (2) The terms of an infrastructure loan contract shall bind the state and a state agency, and the state agency shall unconditionally repay the loan from the money the agency has pledged under the terms of the loan contract.

Amended by Chapter 342, 2011 General Session

**72-2-206 Department authority to contract.**

The department may, upon approval of the commission:

- (1) make all contracts, execute all instruments, and do all things necessary or convenient to provide financial assistance for transportation projects or publicly owned infrastructure projects in accordance with this chapter; and
- (2) enter into and perform the contracts and agreements with entities concerning the planning, construction, lease, or other acquisition, installation, or financing of transportation projects or publicly owned infrastructure projects.

Amended by Chapter 121, 2021 General Session